00108579

THE
ASIATIC SOCIETY OF BOMBAY
TOWN HALL, BOMBAY-1.

Digitized with financial assistance from

Government of Maharashtra

on 01 February, 2020

EAST INDIA (CONSTITUTIONAL REFORMS).

Reforms Enquiry Committee, 1924.

108579

APPENDIX 5 TO THE REPORT.

WRITTEN EVIDENCE.

00108579

LIBRARY OF THE BOMBAY BRANCH OF THE

LONDON:
PUBLISHED BY HIS MAJESTY'S STATIONERY OFFICE.
To be purchased directly from H.M. STATIONERY OFFICE at the following addresses:
Adastral House, Kingsway, London, W.C.2; 28, Abingdon Street, London, S.W.1;
York Street, Manchester; 1, St. Andrew's Crescent, Cardiff;
or 120, George Street, Edinburgh;
or through any Bookseller.

1925

PRINTED IN INDIA.

Price 9s. net.

NOTE.

The Report of the Reforms Enquiry Committee and the views of the Local Governments on the working of the Reforms are published separately (Report, Cmd. 2360; Views of the Local Governments, Cmd. 2361 and Cmd. 2362).

TABLE OF CONTENTS.

		Page.
	Madras.	
1	Memorandum by M. R. Ry. K. Rama Ayyangar Avl., M.L.A.	1
2.	Memorandum by Sir K. V. Reddy, *ex*-Minister, Madras	18
3.	Memorandum by Mr. C. R. Reddy, M.L.C., Madras	27
4	Memorandum by M. R. Ry. Rao Bahadur M. C. Raja, Honorary Secretary, Madras Adi-Dravida Mahajana Sabha, Madras	51
5.	Memorandum of the 1921 Club, Madras	58
6.	Letter from the Chief Whip, the All-India Visvakarman Liberal Federation, Madras, dated the 11th October 1924	69
	Bombay.	
7.	Memorandum by Sir Purshotamdas Thakurdas, M.L.A.	79
8.	Memorandum by Sir Chimanlal Setalvad, *ex*-Member of Executive Council, Bombay	89
9.	Statement of the Government of Bombay regarding Sir Chimanlal Setalvad's evidence	96
10.	Memorandum by Mr. A. N. Surve, M.L.C., Bombay	103
11.	Memorandum by Mr. R. G. Pradhan, M.L.C., Bombay	110
12.	Memorandum by Mr. P. R. Chikode, Belgaum	117
13.	Memorandum by Mr. B. G. Sapre, Bombay	120
14.	Memorandum of the Deccan Sabha, Poona	128
15.	Memorandum of the Bombay Branch of the National Home Rule League.	134
16.	Memorandum of the Bombay Presidency Association	143
17.	Letter from the General Secertary, All-India Trade Union Congress, Bombay, dated the 18th August 1924	159
	Bengal.	
18.	Memorandum by Sir Provash Chunder Mitter, *ex*-Minister, Bengal ..	160
19.	Supplementary memorandum by Sir Provash Chunder Mitter, *ex*-Minister, Bengal	179
20.	Memorandum by Sir Surendra Nath Banerjea, *ex*-Minister, Bengal ..	193
21.	Memorandum by Mr. A. K. Fazlul Huq, *ex*-Minister, Bengal	207
22.	Memorandum by Mr. A. K. Ghuznavi, *ex*-Minister, Bengal	210
23.	Memorandum by Nawab Bahadur Syed Nawab Ali Chaudhury Khan Bahadur, *ex*-Minister, Bengal	217
24.	Memorandum by Mr. A. Marr, Financial Secretary to the Government of Bengal	223
25.	Memorandum of the Central Administration European Association. Calcutta	226
26.	Memorandum of the Bengal Chamber of Commerce, Calcutta	230
27.	Memorandum by Mr. Hem Chandra Das Gupta, Honorary Secretary, All-Bengal Government College Teachers' Association, Presidency College, Calcutta	234
28.	Memorandum of the Indian Association, Calcutta	236
29.	Memorandum of the Bengal Central Rayet Association, Calcutta ..	233
30.	Memorandum of certain Hindus of Bengal and Assam	240

PAGE.

UNITED PROVINCES.

31. Memorandum by the Hon'ble Syed Raza Ali, Member, Council of State, Vakil, High Court, Allahabad 264
32. Memorandum by Moulvi Mohammed Yakub, M.L.A., (of Moradabad) .. 270
33. Memorandum by Mr. C. Y. Chintamani, *ex*-Minister, United Provinces .. 274
34. Addendum to Mr. C. Y. Chintamani's memorandum received with his letter, dated the 20th September 1924 322
35. Memorandum by Mr. Shafaat Ahmad Khan, M.L.C., United Provinces 324
36. Letter from Mr. Akhtar Adil, Vakil, High Court, Agra, dated the 20th August 1924 329
37. Memorandum of the United Provinces Liberal Association, Allahabad .. 330
38. Letter from the Honorary Secretary, United Provinces Liberal Association, Allahabad, dated the 26th September 1924 339
39. Letter from Kunwar Kavindra Narayan Singh, General Secretary, Sri Bharat Dharma Mahamandal, No. D.-7767, dated Benares, the 8th September 1924 340
40. Letter from the Secretary, Upper India Chamber of Commerce, dated Cawnpore, the 13th August 1924.. 342
41. Memorandum of the Hindustan Chamber of Commerce, Cawnpore .. 345

PUNJAB

42. Memorandum by Mr. Harkishan Lal, *ex*-Minister, Punjab 348
43. Memorandum by the Hon'ble Sir John Maynard, Member of the Executive Council, Punjab 351
44. Memorandum of the Punjab Provincial Muslim League, Lahore.. .. 374
45. Memorandum by Mr. M. Barkat Ali, Vice-President, the Punjab Provincial Muslim League, Lahore 378
46. Memorandum by Pandit Nanak Chand, Lahore 381
47. Memorandum by Mr. Gulshan Rai, Lahore 384

BIHAR AND ORISSA.

48. Letter from the General Secretary, Bihar Provincial Kisan Sabha, No. 42, dated the 20th August 1924 387
49. Letter from the General Secretary, Bihar Provincial Kisan Sabha, No. 43, dated the 21st August 1924 391

CENTRAL PROVINCES.

50. Memorandum by Mr. S. M. Chitnavis, *ex*-Minister, Central Provinces ... 393
51. Memorandum by Rao Bahadur N. K. Kelkar, *ex*-Minister, Central Provinces 401
52. Letter from the Chief Secretary to the Government of the Central Provinces, No. C.-387, dated Pachmarhi, the 29th October 1924 .. 427

GENERAL.

53. Memorandum by Mr. J. E. C. Jukes, Officer on Special Duty in the Finance Department, Government of India 437
54. Memorandum by Mr. G. H. Spence, Deputy Secretary, Legislative Department, Government of India 449
55. Supplementary memorandum by Mr. G. H. Spence, Deputy Secretary, Legislative Department, Government of India 456
56 Proceedings of a ladies' meeting held at Simla and resolutions passed therein 463
57. Memorandum on behalf of the Parliamentary Muslim Party of the Legislative Assembly 466
58. Memorandum of the Railway Department, Government of India .. 469

Memorandum by M. R. Ry. K. Rama Ayyangar Avl., M.L.A.

I regret I am not able to spare sufficient time to write a detailed memorandum such as I would like to write. I propose to indicate the main lines under which the Committee might take steps, to give fuller effect to the Government of India Act as enacted, and the lines on which the Act will have to be modified, if it is intended to give real responsible Government to India and if the steps taken are really to yield better results.

The Statement made by Lord Olivier recently, makes it clear that the declaration by His Majesty the King Emperor on the 16th of August 1917, is accepted by the Cabinet to grant responsible Government to India, as distinguished from the attempts made by Sir Malcolm Hailey in his speech in the Legislative Assembly on the 8th February last to whittle it down. The Joint Parliamentary Committee in their report in para. 4 put a restricted construction on His Majesty's Declaration, and consequently it may at once be pointed out that the Government of India Act as passed, did not carry out His Majesty's Declaration in the spirit in which it was made. In fact it was widely known, that the circumstances under which His Majesty's Declaration was made, materially changed by the close of the war, when the Joint Parliamentary Committee sat to report on the Bill to be presented to the Parliament, and that the statesmen both in England and India were not compelled by force of circumstances to keep to the promises made, and continued to act in the liberal spirit in which they made them. It therefore follows that the frame of the Government of India Act cannot be maintained as it is, even if it be, as Sir Malcolm Hailey argues in his speech referred to above, that there is only the question of the stages for the grant of responsible Government. The Government of India and the British Cabinet having agreed, as it appears from their recent utterances, to sincerely co-operate with the people of India to hand over the Government of the country to the people, the Government of India Act which according to the Joint Parliamentary Committee is more for the "gradual development of self-governing institutions" than for "Progressive realisation of responsible Government in India" cannot any more stand, as the basis for consideration. The fact is that the bureaucracy in India and the Die Hards in England have whittled down the effect of the Declaration, taking advantage of expressions which were intended, as now admitted, to refer to the methods of realisation of Responsible Government rather than to the objective itself. "The gradual development of self-governing institutions" must be taken to mean "The grant of autonomous powers partially at least in all branches of the administration to be followed up in the course by the realisation of Responsible Government." This is the correct view to take of the

Declaration of His Majesty which was made after the Minto-Morley Reform Act which gave all the other opportunities to the representatives of the country to get acquainted with the methods of administration like interpellations, resolutions, budget discussions, legislation, and taking part in Executive Government by non-officials, except the realisation of Responsible Government, and in that view the Government of India Act cannot be the basis of the further steps to be taken in the grant of Reforms.

The Government of India Act should be condemned as having been conceived on wrong lines. The dyarchic form of Government in the provinces without absolute powers over any branch of the administration, the detailed control of the Governors over the legislatures in the provinces, the position of the Viceroy and the Governor General with respect to the Central Government which is practically the same as under the old Act and the non-transference of any department of the administration in the Central Government to the elected representatives of the people, the diminition in the powers to legislate which all the legislatures enjoyed before the present Government of India Act was passed, and the rules relating to the autocratic powers vested in the Governors and the Governor General; all these completely establish the fact that the Government of India Act is fundamentally defective and did not really carry out the spirit of the Declaration of August 17th, namely the grant of full responsible Government to India. I therefore first contend that the Committee should recommend that the Government of India and the Cabinet should immediately take steps to frame a new Act with a view to settle its provisions for the realisation of responsible Government to India. Such an Act will not permit the objectionable provisions, I have referred to already, which are meant to control the pace and obstruct the realisation, of responsible Government rather than develop and assist such realisation. The provision in the latter case will only give power to the Governors and Governor General, etc., to advise the Legislative Councils and the Central Legislature to govern some part of the administration of each department with full powers and to avoid pitfalls and come to a correct understanding of the proper Government of the country. I will illustrate my idea by an example; even if a dyarchic Government is to be allowed in the transitional stage—which I do not grant is necessary—it ought not to be in the power given to the reserved half of the Government and the Governor to appropriate and control the Financial distribution of the provinces to the prejudice of the transferred half. A separation of the revenue in the proportions of the previous 10 years' expenditure of the departments belonging to the reserved and the transferred halves, and grant of full power to each half to enjoy that revenue with its natural growth with full control to adjust it to its several departments with further powers of taxation, with power to the Governor only to advise and control them in the frame of proper budget for the r receipts and expenditure, would be the proper way to frame an Act which will really help the elected representatives of the people to realise responsible Government. Under the Government of India Act, as it is, the reserved half frames the budget, and the transferred half is at the mercy of that half and the Governor. The appointment of the ministers, and the appointment and control of the services working under the ministers are all in the hands of the Governor and the ministers learn more to adjust themselves to the Governor and the reserved half than train themselves to realise responsible

Government. To take another illustration—The power of the Provincial legislature, before the present Government of India Act was passed, to frame laws was much higher than it enjoys under the Reform Act. The Governor now can refuse to give his assent to a bill even if the Council passes it. He can withdraw it from being considered by a certification and in the case of a bill affecting reserved subjects he can enforce a bill even after it is thrown out by the Council. This kind of autocracy is provided for in the Act because it is intended, as I have said above, more to control the legislature according to the whims and fancies of the reserved half of the Government than to enable realisation of responsible Government by the Indian representatives. To ensure this latter purpose the proper frame of the Act will be to allow the legislature to pass its laws and enforce the same, leaving it to the Governor to advise the legislature when necessary by addressing it and giving him the usual power of veto to be exercised only in exceptional cases for reasons to be recorded. But in such cases the legislature must be given the power to renew the bills with or without modifications after a definite period of time.

I am of opinion therefore that the frame of the Act should be immediately reconsidered with this object in view, namely so as to fit it to train the people for the realisation of responsible Government, even if the rest of the views put forward by the Government of India and Sir Malcolm Hailey relating to the stages be deemed correct.

This brings me to the attitude of the country towards the Reform Act. It has not been accepted by the Indian National Congress or by the large body of other politicians of all shades, except by a few moderates who thought that the Act will be worked *bonâ fide*, so as to give effect to the spirit of the Declaration of His Majesty of August 17th and for the realisation of responsible Government. But the budget proposals, the certifications, the abnormal increase of expenditure, and the use to which the bureaucracy are able to put the provisions of the Act to carry out their will against the interests of the country, all these have disillusioned politicians of all shades of opinion. Therefore it cannot be argued that the Act has not been given a fair trial; it has been clearly accepted on all hands that the institutions, namely the Legislative Councils, the Indian Legislative Assembly and the Council of State have shown the fitness of Indians to wield the subjects with perfect control. The testimony of the Governor-General and the Governors of the Provinces to the good work done by all the elected bodies as far as they co-operated, abundantly proves that if there is any objection to the grant of responsible Government it is only the creation of the British officers and statesmen and not the want of capacity of the people of the country. The reasons ordinarily set forth to oppose the grant, namely (1) the relations of Chiefs and Princes in the responsible Government that might be granted to the country, (2) Communal and racial differences, (3) the defence of the country, (4) the position of the services, (5) the position of the foreign capital in the country and others are only specious arguments intended to delay the grant of responsible Government. Immediate control transferred to the representatives of the people will easily bring about an adjustment which with the advice of genuine English statesmen of the country will ensure the prosperity of the country without any cause for anxiety. I now proceed to deal with (1) the defects now observed in the working of the Act,

(2) the improvements that can be made by the rule making powers reserved in the Act, (3) the amendments to the Act necessary to really benefit the country and place it on the way to realise responsible Government.

II.

THE DEFECTS IN THE WORKING OF THE ACT AS IT IS.

(1) *Provincial Councils.* (*a*) *The position of the Ministers in the transferred departments.*—In dealing with this question I assume that dyarchy is necessary. The transferred departments are put in charge of the ministers. The budget is considered as a whole, and is practically in charge of the reserved half and the Governor. The minister has no separate purse. Whatever is, on sufferance, allowed, has to be accepted by the minister. If he insists and the reserved half do not agree he has either to resign or create a deadlock. Any amount of detailed knowledge of the Financial position on the part of the ministers does not avail. Ordinarily the ministers being new and not acquainted with the details of the other half of the administration cannot assert and they have to be in the good graces of the Governor and the reserved half under the Act. The Act has to be amended if at all, so as to enable the transferred half to be in charge of some heads of growing revenue and be masters of the budget of receipts and expenditure of that revenue, subject to the absolute control of the Legislative Councils. The power over that budget of the Legislative Council can only be subject to the veto of the Governor for reasons to be recorded. (1) In the case of the salary allowances of specified services to the extent of the necessary staff to be ascertained and fixed by rules. (2) In the case of interest and sinking fund charges on loans raised by the departments under the ministers. (3) In the case of expenditure of which the amount is prescribed by any law to be payable by the transferred departments and other expenditure liable to be incurred by the transferred department by reason of previous commitment of the Government in respect of these departments. This provision must be made by amending the Act. The rules ought to regulate details only.

(*b*) *The power of the Ministers over the services appointed by the Government of India and the Secretary of State.*—Here again the Act makes the minister powerless. The defect is admitted on all hands. The minister must have the power to control the services working under his charge; the Governor in Council, the Government of India and the Secretary of State in Council may be the appellate authorities to act either directly or through properly constituted boards, but so long as the minister has not the power to punish or remove men serving in departments under his control he cannot exercise an efficient supervision over their work or enforce willing submission to his orders. This defect can be remedied by the proper frame of rules under section 45-A, clause 2, sub-clause 4; the rules, as now framed, have allowed scope for the Governor practically to deprive the minister of his legitimate right to choose from amongst the services competent men for filling up vacancies. This happened in Madras in the sleection of officers in the medical and other departments. Such deprivation of the occasion to exercise responsible Government, will not and cannot carry out the object of the Declaration of August 17.

(*c*) The Act is again defective in that no real independence which will train the ministers and the legislature to realise responsible Government is given.

It makes the ministers depend too much on the reserved half rather than look to the Legislative Council for real support. This is the natural consequence of the precarious position the minister occupies. He is nominated by the Governor. He is to keep the confidence of the majority of the elected representatives more by pleasing them with official loaves and fishes than by an exhibition of his capacity to better the administration of the departments under his control. As pointed out above he is financially to depend on the reserved half and the Governor for keeping up his departments. The All-India service and Provincial service men serving in departments under his control can easily defeat his objects in helping and satisfying with appointments, etc., his majority in the Council. In fact the whole series acts and reacts against each other, till the minister is made to strain every nerve to maintain his status by adjustment as suggested.

In fact the "no confidence motion" moved in the Madras Legislative Council after the recent general elections showed clearly how the minister had to carry the favour of the reserved half and the Governor to make a show of even a nominal majority and how one or two individuals amongst the elected representatives were able with a command of 3 or 4 votes to turn the scale one way or the other. Promises made by ministers of resigning their offices if only the no confidence motion was lost, agreeing to give away the control the minister had or was supposed to have over the services into the hands of the Governor and the reserved half, trying to patch up differences amongst the elected representatives of one community or another by promises of either ministership or offices in the services, were all phenomena which could be well observed. Except confusion, want of character, and abject surrender, no real grit or capacity to administer is nurtured by the Act as it is now worked. The remedy for this cannot be within the Act or by the power to frame rules. The minister must be elected from the elected representatives from the commencement. He must have a separate purse and absolute control over his departments subject only to the rules regulating the services by the conditions of recruitment. The services, superior or inferior, should be absolutely free from communal distribution. Competency should be the sole test, communalism being allowed scope only amongst candidates of equal status and equal equipments. The reserved half should not be given power to play into the hands of the ministers and *vice versa*, the one adjusting to the convenience of the other or the other affording help by the command of a majority in the Council. The scandalous attitude taken by the Ministerial majority in the Madras Council during its first term against political offenders and their treatment in the gaol, and their attitude when first the Irrigation Bill was introduced can be easily seen to be the outcome of this adjustment amongst the two halves of the Government and the ministers and the chief men forming their majority. The Act will have to be amended so as to free the services from the control and from the interference of communal feelings without really interfering with the powers of the minister to regulate appointments in his departments with respect to the general rules for all services. The powers of appeal may be left to the service board or boards or to the other authorities provided by the Act. This particular aspect has been the bane of the present Act and the rules framed thereunder. Until their defect is remedied the British Government would not have done its duty to this country or in giving effect to the Declaration of His Majesty and advancing it

towards the realisation of responsible Government of dominion status. It will not be out of place to attach to this memorandum copy of a paper read by Mr. E. Periyanayagam, Council Secretary in the 1st Madra Legislative Council under the Reform Act on 28th March 1924 in the Y. M. C. A., Madura.

(*d*) The powers of the interference of the Governor, the Governor-General with the power of the Legislature to enact law is another defect in the frame of the Act. There is really no object in enabling any authority to interfere with the discussions of the legislature at the several stages of a bill before it. Such interference only gags free discussion and the opportunity to the representatives of the people to improve by committing mistakes, if any and hearing the more experienced members of the reserved half and the Governor himself on important questions in which their advice may be of considerable use to them. Certifications ought not to be resorted to, but the power of veto may be exercised with the object to compel acceptance of amendments under extraordinary circumstances. The present procedure either enrages the representatives of the people or makes them indifferent to their work by compelling them to submit even against *bonâ fide* opinions formed after thorough study. The Legislature must always be able to discuss the amendments suggested by the vetoing authority and the free expression of opinions on such amendments must be carefully weighed and rarely set aside and even then only for proper reasons to be recorded. Legislation in respect of all subjects whether transferred or reserved should be open to the discussions mentioned above, though in respect of the reserved subjects there may be greater powers given to the vetoing authority. All bills must be capable of being reintroduced in the Council within a certain time of the veto and leave to introduce bills ought, ordinarily, not to be refused and if no sanction is accorded within the number of months specified by the Act, the bills must *ipso facto* be capable of being introduced in the Council. All these can be effected only by an amendment of the Act and not by the framing of any rules.

The Central Government.

(*a*) *Its Constitution.*—The real halting nature of the Reform Act is brought out by the constitution of the Indian Legislature. One can see no reason for no change being adopted in the constitution of the Government of India except the appointment of a few additional non-official executive council members and the constitution of an Assembly with a majority of elected representatives whose actions and decisions could be easily set at naught by the creation of another chamber with practically a pact majority in favour of Government to carry its dictates in all aspects. One wonders, when he studies this constitution of the Government of India, what purpose the Reform Act was intended to serve in changing the constitution of the Central Legislature. A few directly elected representatives of the people are brought together and given opportunities to express their opinions on subjects of importance but they can neither learn responsible Government nor are they given opportunities to practise the same. The few non-official members of the Cabinet are not the elected representatives of the people. They are part of a Government not responsible to the people. In fact they have nothing to care for the wishes of the representatives of the people and are in no way bound to respect their

views. What is then the frame of this portion of the Act so far as the Declaration of August 17 is concerned ? There is nothing more than what the Minto-Morley reforms did for the people. It is no step in the realisation of responsible Government, nor is it any "development of self-governing institutions with a view to the gradual realisation of such responsible Government." Why should not the departments of this Government of India similar to the transferred departments in the Provincial Councils be in the charge of ministers responsible to the people ? There are various minor administrations in which there are Forests, Educational Institutions, Land-Revenue administrations and many other departments which are all transferred subjects in the Provinces. Why should all these be reserved subjects in the Central Government with 2 chambers to assist it ? It is a mockery to call the Act a Reform Act and to keep the more advanced of the men in the Executive Council of the Government of India not responsible to chambers to which elected representatives with higher qualifications are sent. The Act is fundamentally defective in this respect and so long as it continues as such the country cannot accept the reforms lying down. The political party in the country which had refused to recognise the Reform Act as any real step of improvement towards the realization of responsible Government is the party whose views must be respected as straightforward and true. The other parties which accepted them as useful so far as they went were untrue to the country or cowards who had not the courage of their convictions but were content to accept whatever was given and plod on till mercy was shown next with whatever object it may be. This defect is explainable only in the view that what was intended to be given by the Act was not "development of self-governing institutions with a view to realise responsible Government" but to keep people in ignorance of 'responsible Government' in some institutions till it suited the Parliament and the Government of India to start the steps for realization of responsible Government in those spheres when they chose it irrespective of the Declaration or the fitness of the people. This certainly was not the intention of His Majesty's Declaration. It is the "gradual development" but not the gradual start of "development of self-governing institutions" that was intended to be declared. The stages of course may be starting with a few subjects and then transferring the whole.

(*b*) *Finance and Budget.*—Here again the provisions of the Government of India Act are very peculiar. "The estimated annual expenditure and revenue was to be laid in the form of a statement before both chambers" is the provision of the Act. But "no proposals for the appropriation of revenue or moneys for any purpose shall be made except on the recommendations of the Governor-General and the proposals relating to interest and sinking fund charges and other necessary items including ecclesiastical, political and defence are not open to discussion." The Governor-General even in other cases can refuse to act upon the recommendations of the Legislative Chambers. It follows therefore (1) that estimates of revenue are left to the sweet will and pleasure of the Governor-General in Council to put the budget in any form. (2) That no item of expenditure not provided for in the budget shall be allowed to be provided at the instance of the Legislative Chambers. (3) That any reduction carried by either of the chambers is not binding on the Governor-General in

Council, and that (4) Any special expenditure without the sanction of either chamber can be provided for by the Governor-General as necessary "for the safety and tranquillity of British India or any part thereof," and that to make up for money required to meet the expenditure provided, Finance Bills can be introduced by the Government and carried even in the teeth of the opposition of the chambers if the Governor-General certifies that the expenditure and the taxation are necessary. One can see that the effect of such restriction is that the Legislative Assembly is not allowed to govern or learn to govern any part relating to any head of the Indian Budget. The Assembly can make proposals for reduction of expenditure in some cases and unless the Executive Government and the Governor-General again accept them, such proposals stand rejected. How can the representatives of the people learn to govern under these circumstances? The appointment of one committee like the Retrenchment Committee proved that at least to the extent of about 20 crores the proposals of expenditure as framed by the Government of India could be cut down without prejudice to the administration. Moderate proposals for cutting down expenditure under any grant made by the majority of the Legislative Assembly before this Committee was appointed by the Executive Government were not acceptable. The recommendations of even such an expert committee are soon easily flung aside when it does not suit the whimsical opinions of the heads of departments. The frame of the Act which permits this course cannot in any view be beneficial to the interests of the country nor can it improve the capacity of the representatives of the people to realise responsible Government. The budget heads under both revenues and expenditure must be capable of being amended by the Legislative Chambers except expenditure under interest and loans, salaries and pensions of specified superior officers and minimum expenditure under the heads ecclesiastical, political and defence divided as above. All other expenditure of all officers and services should be capable of being added to or subtracted from the budgets placed before the chambers by the vote of either chamber subject to rules to be framed for the minimum strength, salary, and allowances of any department of the administration. For explaining my position I will take a department which is supposed by the Government to be the last to be placed under the control of the legislature, namely the Military department. The Retrenchment Committee has explained in a way the minimum strength of the military forces required for the defence of the country. The Secretary of State has differed from that committee in very few cases as regards the strength of the forces. Granting that the Indian Legislative Chambers ought not at present to be allowed to interfere with the strength of the forces as recommended, why should it not be open to the Assembly to examine the expenditure, under the various detailed heads for the maintenance of this army, and control the extravagance, misuse, and overbudgeting by advocating economic practice and sound suggestions which might lessen the cost of the military services? Why should it not be open to the Legislative Assembly for example to make proposals to work the military dairy farms more economically and suggest the starting of co-operative stores system for the supply of stores to the several military units rather than allow the Contract system under which the charges for goods supplied ought necessarily to be considerably more to the men in the military services? Similarly why not the expenditure under the head transport charges be capable of being cut down by a vote of the Assembly

when as proved by the Retrenchment Committee much leakage and extravagance can be proved? Why should there be room given for an impression in the whole country that under the head military services considerable sums of money of the poor tax-payer of this country are being extravagantly spent without giving an opportunity to the representatives of the people to examine expenditure and suggest economy? I take the military budget for this example only to show that even in services supposed to be the last to be transferred to the control of the people considerable detailed items ought immediately to be under the control of the Legislative Assembly so that the Assembly itself might learn the art of preparing a military budget in all its details. Even regarding the strength of the forces, the proportion in which the British and Indian sepoys and officers should be entertained and the strength of the fighting forces, reserves, auxiliary and territorial forces should to a certain extent immediately be allowed to be regulated by a vote of the Assembly subject to a minimum to be ascertained and fixed by experts examining the military conditions of the country. All forward policy of Military domination should be subject to the vote of the Indian Legislative Chambers except when by His Majesty's Royal Command any extraordinary policy is suggested to be adopted for India. This being so it follows that the power of certification by which bureaucratic Mandate is upheld under the guise of expert advice must go and the power of veto exercised, if at all, only in exceptional cases for reasons to be recorded in detail, meeting the contentions put forth by the majority of the Legislative Assembly should alone be allowed to the Governor-General.

(c) *The Power to pass law.*—The constitution of a second chamber with official and nominated majority is but a mockery. The power of certification of bills makes the whole machinery of the legislature a farce. The condition that without sanction the non-official bills cannot be introduced is opposed to the fundamental principle underlying representative legislature. The power of veto and the power to promulgate ordinances will sufficiently safeguard the interests to protect which these restrictions are enacted in the Reform Act. With proper safeguards providing that the initiative for religious and communal legislation should be entrusted to a safe majority of particular representatives affected, the legislature should be left free to initiate and pass laws subject to the veto of the Governor-General, and the Secretary of State for reasons to be recorded. This will train the people to realise self-government more than the present provision of the Act. If a second chamber is advocated at all it must consist of a majority of elected representatives of its special constituencies formed for that chamber. The nominated and official members should be only a small minority for representing minority interests and for advising the chamber with practical and expert knowledge. A real differenca of opinion between the two chambers then will be a safe guide for deciding the questions causing the differences.

I have so far dealt with some of my main ideas relating to the Act and the rules. Want of time and facilities prevent me from examining the questions in greater detail. I shall be prepared to explain my ideas more in detail if required.

I have thus far assumed that dyarchy is necessary in the provinces for giving effect to the terms of the Declaration of August 1917. I would contend that the same ought not to be continued even for a moment further. If instead

of dyarchy, full autonomous powers had been given to the provinces and the Legislative Council constituted with a large majority of elected representatives and a cabinet formed consisting of equal halves of nominated and elected representatives as ministers, with the Governor sent down from home to advise the legislature whenever necessary, education for responsible Government to the country would have been more effective. The departments will be in charge of the services whose policy will be laid down by the legislature. Rules and regulations may be framed to regulate the recruitment, salary and allowances of the services. Boards may be constituted consisting of officials and non-officials to control the appointment and conditions of service and dismissals and suspensions thereof. Minimum strength of the services in each department and the portion subject to variation by the legislature may be specified. The budget will be controlled by the Legislative Council and regulated by it in respect of non-recurring expenditure and the more essential portions of the recurring expenditure subject to the veto of the Governor who will be empowered to send back particular heads of budgets for re-consideration by the Councils. Law making power should also be with the Councils except in respect of taxation which should be subject to the sanction of the Governor and the Central Government.

In the Central Legislature all Departments except ecclesiastical, political and defence should be immediately transferred to the ministry half of which may be elected by elected representatives of the people and the other half nominated from amongst the elected representatives. The budget should be under the control of the legislative chamber except to the extent of a portion of the above said reserved departments, which might be fixed by an expert committee that might be appointed to decide the strength and salary and allowances of the essential portion of these reserved departments and also essential strength, salary and allowances of the departments in charge of the ministers. Taxation should be subject to the approval and the passing by the chambers of the legislature subject to the veto of the Governor-General and His Majesty through the Secretary of State. The present Legislative bodies should continue as under the present Reform Act and the Upper Chamber, *viz.*, the Council of State may be allowed to exist but must be constituted so as to have an elected majority of at least 75% of the total number. In my view a proper and detailed examination of the strength of essential services in each department left undisturbed by the Legislative bodies with the rest of the service left to the control of the legislature subject to the veto of the Governors and Governor-General assisted by the advice of experienced and trained servicemen in each department, with certain reserve powers to the Governors and Governor-General, will answer the needs of the country and stimulate the growth and knowledge leading to the realisation of responsible Government within a very short period of time.

The franchise may for the present continue as it is. After the term of the first Legislative bodies formed under the proposed Reform Act, steps should be taken to expand the franchise further so as to have a much larger number of electors for each constituency and to afford representatives for other interests like labour, depressed classes, etc. Then latter interests may have elected representatives at once also.

K. RAMA AIYANGAR, *M.L.A.*,
Madras.

APPENDIX.

THE FIRST REFORMED LEGISLATURE—MADRAS.

At the time when the new Reforms were announced, there were three distinct political groups in this Presidency. The Congress party were carrying on a vigorous non-co-operation campaign with special stress on the futility of Reforms and Boycott of councils. There were the liberals or moderates whose influence was limited to the urban areas and among the educated classes. Then there was the raging, tearing propaganda of the Justice Party under the late Dr. Nair and Sir Pitty Chettiar whose slogan was "Don't vote for a Brahmin." The last programme found most favour with the uneducated, illiterate masses who form the bulk of the electorate and the possibility of dislodging the Brahmin from his citadel was a prospect alluring by itself. Thus it happened that when the results of the first elections were announced it took one's breath away to find the Brahmins who hitherto monopolised political situations in this Presidency were swept clean off the boards and out of the total elective strength in the general electorate of 65 barely 15 were Brahmins most of these hailing from the Circars, the stronghold of extremism in this Presidency. To these must be added representatives from the special constituencies and the communal electorates nearly all of whom returned non-Brahmins. The leaders of the Justice Party did not run any candidate but they were astute enough to make their party label sufficiently elastic to apply to all who came victorious at the polls, if he was not a Brahmin. The unexpected step of H. E. the Governor in calling upon Sir Pitty to form the Ministry gave an undreamt of accession of strength to the party and the hostile critic and the indifferent party man were soon jostling with each other in swearing allegiance to the new party in power. The ministry had the solid phalanx of 100 members at its back and never was a Governor so popular as Lord Willingdon in those times and never was a Ministry installed in office under better auspices and with a greater sense of security than the Madras Ministers. Flushed with victory at the polls, the non-Brahmins immediately tried to give effect to the only programme they had, *viz.*, Communal representation for non-Brahmins in all offices paid and honorary. There was hardly a subject during the first year of the Council's existence which was judged as on its intrinsic merits but on the relative bearing it had to communal representation. If the acquisition of lands for Queen Mary's College for Women or an increased grant to the Madras Widows' Home was opposed, it was because the larger share of the benefits was enjoyed by only women of the Brahmin community. The oft debated conscience clause was strongly resisted by the party in power because it was feared it would shake the foundations of the Christian Missionary institutions where the greater number of non-Brahmin boys received their education. It is interesting to note that some of the leaders of the party who opposed this measure vigorously in this Council had as strongly supported an identical resolution in the previous Morley-Minto Council. In fact communalism went to such lengths that it was considered good party discipline to turn down any measure brought by the opposition good or bad. Mr. M. Ramachandra Row's Local Option Bill which was supported by a volume of public opinion in this Presidency was saved an ignominious defeat in Council only by the Government of India refusing to give its sanction for its introduction. If Budget demands for salaries of officers were

cut down or thrown out, it was because non-Brahmin officers in those departments did not receive sufficient encouragement. Some of the interpellations and resolutions on the subject were most fanciful bordering on the grotesque such for instance the raising of the retiring age of non-Brahmins in Government Service, the deportation of Brahmin Secretariat clerks to Moffussils or restricting the admission of Brahmin boys in Government Schools and Colleges. The Madras Cabinet with a view to put an end to these ugly communal squabbles passed a G. O. which provided for the preference of non-Brahmins at every stage of the Government Service and the Ministers claimed no small credit for this achievement. But in spite of the great labour and care bestowed on this precious document it remains practically a dead letter even to this day owing to a concatenation of circumstances which need only be briefly told. The Leaders of the Party thought that mere passing of resolutions will be sufficient to keep alive the fire and enthusiasm of their following. The disillusionment came when the junior partners pressed for a division of the spoils and the disconcerting portion was either that the spoils never came or they were not sufficiently numerous to go round. The genius of the Brahmin is not likely to be thwarted by resolutions on paper and thanks to the help of the European members, the G. O.'s in their application were either whittled down or explained away. The Ministers found themselves in an embarrassing position to disoblige their indispensable Brahmin assistants who in office continued to be their friends, philosophers and guides as under the old dispensation. Meanwhile, applications for the loaves and fishes of office for themselves and their dependants grew numerous day by day. It was no longer the main dividing line of Brahmin and non-Brahmin but the numerous divisions and sub-divisions of the non-Brahmin community itself pitted against each other. Promises were made but under the circumstances they could never have been intended to be fulfilled. There was much grumbling and the fissiparous tendency grew to such proportions that before the third year was out there was an open rupture among the ranks and in the midst of these personal recriminations questions on communal representation receded more and more to the background and issues of national and general importance came into prominence. In the elections that followed the original party cry—the only justification for the existence of the non-Brahmin party—faded away and every man fought for himself with or without the help of the Brahmin. Recently some of those staunchest defenders of communal representation have even made a declaration that the communal problem has to a great extent outgrown its acuteness and importance. Of the many subjects of general importance that engaged the Council, the temperance reform must take the foremost place. The untimely fate of the Local Option Bill has already been adverted. There were concrete proposals for model liquor shops, for compulsory teaching of temperance in schools, for total prohibition of the manufacture, import and sale of all intoxicants and abolition of toddy shops in accordance with resolution of Municipal Councils and local Boards. The members of the house were so keen on temperance reform that a resolution which wanted remission to arrack renters who suffered owing to the action of the non-co-operators and one which pleaded for an eighth share of Excise revenue to relieve the financial distress of the local Boards were summarily rejected, the latter one for the principal reason that local Boards should not covet tainted money. The direct resolutions on

the subject were however circumvented by the Government undertaking to form committees to investigate and report on the various proposals. It is not generally recognised that one of the most potent weapons of defence for the Government is the readiness to form committees and conventions and a seat on one of them is largely sought after by many a non-official member hankering after some sort of Government patronage and recognition. So in spite of three years of constant agitation the Council did nothing for Temperance and the Minister for Excise in the last Budget Sessions had the temerity to announce that a questionnaire had just then been published and circulated. That was the last opportunity the late Council had of expressing its opinion on the subject. Similarly other questions of importance which the Government could not oppose were easily shelved and the reports on the abolition of the Revenue Board, report of the committee to investigate into indigenous systems of medicine, the report on the much needed amendments to the existing tenancy law were all consigned to the limbo of spent enthusiasms.

The attitude of the Council with regard to the non-co-operation movement deserves more than a passing notice. It came up in diverse ways from a motion to introduce handspinning and handweaving as cottage industries to adjournment motions on the arrest of prominent non-co-operators and were generally introduced by members of the opposition. Non-co-operation movement in this Presidency is largely under the leadership of the Brahmins and the Ministerial party come in for a large share of vituperative and malicious attack from them and their lieutenants. It is therefore not to be wondered if this prejudice did not largely colour the judgment of the Council in the consideration of such questions. The adjournment motion on behalf of one famous non-co-operator was not even allowed to be debated on the floor of the House—the only instance of the kind that occurred during the whole term. The arrest of another was strongly supported. The resolution "for revision of sentences against non-co-operators who did not defend themselves by a mixed committee of officials and non-officials" was thrown out by an overwhelming majority. There was a full-dress debate on the treatment to be accorded to all Political offenders as first class misdemeanants as in England. The Law Member's defence was halting and he took refuge on the technical plea that the rules could be revised only by the Government of India. But the views of the dominant party were more pronounced on the merits and they put forward the antediluvian theory that Political agitators did not deserve to be treated better than common felons. This motion, contrary to the expectations, was not defeated but some ingenious member of the party who wanted to safeguard its prestige and reputation for progressive political ideas made an extraordinary motion that "The Council do now pass on to the motion next in the agenda" and it was carried. The Council was generally very sympathetic towards the depressed classes except when their interests clashed with the interests of the Mirasidars or landed proprietors. The late Dr. Nair had given evidence before the Joint Committee to the effect that the non-Brahmin movement was as much a movement to protect the depressed classes as the caste Hindus from Brahmin domination. But a serious cause for friction arose soon after the Council was formed. There was a labour strike in Buckingham and Carnatic Mills in the city of Madras, the strikers being caste Hindus. The Adidravida

coolies refused to strike and the caste Hindu strikers were replaced by Adidravidas. Riots ensued between the caste Hindus and the Black legs. Government espoused the cause of the Adidravidas, and in thus trying to protect them from the fury of the caste Hindus firing had to be resorted to. The leaders of the Justice Party who were all caste Hindus and who were dependent to a considerable extent on the caste Hindu labourers for their election to the Council, intervened and made the absurd proposal to His Excellency that the Adidravida labourers should be deported to a place about 10 miles from the city. A caste Hindu member brought an adjournment motion in the Council to discuss the situation and bitter were the speeches made. Mr. M. C. Raja, the Audi-Dravida leader, returned the fire and in a vehement speech espoused the hollowness of the non-Brahmin party's altruistic pretensions. The Justice Party took their revenge soon after. One of the Budget motions in the next session was to omit the allotment of salaries to Assistant Commissioners of labour who were recently appointed to safeguard the interests of the depressed classes in the Districts and the motion was carried despite the frantic appeals of the members of Government, both Indian and European.

The abolished officers had been doing a great deal for the uplift of the depressed classes in their respective districts. They instilled a sense of self-respect, acquired lands for them, formed co-operative societies, established schools for their children, and generally protected their interests in diverse ways against the oppression of the landlords and tyranny of village officers. This provoked the jealousy of the Mirasidars in those districts and their representatives in the Council—not an inconsiderable number—easily influenced the leaders to make this a Party question which they were only too willing to do for reasons already stated. Thus the forces of reaction and obscurantism secured a temporary success over the interests of the depressed classes and it is a pity that H. E. the Governor did not think it worth while to restore the demand under the certification powers given to him just as he restored other items of considerably less importance like the Russelkanda Saw Mills or the pay of the European Chief Inspector of Factories.

Much valuable time of the Council was spent on various proposals for retrenchment in the expenditure of Government. The rise in the salaries and allowances of higher officers was ruthlessly attacked and as usual the Government completely disarmed the critics by seeming to meet them halfway. The Committee that was set up by Government with the concurrence of the Council was half-hearted in its attempts, obstacles were thrown in their way by various conflicting interests, specious arguments were advanced and the belated bulky volume that was eventually issued was intended more to mystify than clarify the issues. The offices and salaries to which strong exception was taken in the Council always reappeared under a transformed terminology and in this as in other instances the covert obstructive tactics of the Government is in no way less reprehensible than the methods of the Swarajists because the former are more refined.

Coming to Legislation, the record of work was mainly with the Ministry. The reserved half brought forward a few fiscal bills and only one bill of

importance—the Madras Irrigation Bill. The Madras University Bill and the State Aid to Industries Bill both became law during the last term. There was literally no opposition to the Industries Bill and Sir K. V. Reddy wasted unnecessary eloquence over its introduction. The Bill is intended to assist the establishment and development of industries that have an important bearing on the economic development of this Province. The industries that would come within the purview are (1) nascent industries, (2) industries newly introduced into areas where such industries are undeveloped, and (3) cottage industries. The aid may take the form of loans, subsidies, investments in shares and debentures, guarantees and concessions in the grant of land, firewood, etc. If Nepotism does not play a part in the actual functioning of the Advisory Boards and Government aid is not directed to channels not contemplated in the Act, the industrial outlook of this Province is bright indeed.

The University Bill cannot lay claim to any originality. It closely follows the Allahabad University Bill. The object is to establish a teaching and residential University in Madras. There was considerable opposition to the Bill both from the Press and on the Platform. The Senate contemptuously rejected it. Moffusil colleges were up in arms but they were poorly represented in Council and beyond one nominated member there was hardly a single educationist of any standing or reputation, from the Moffusil. The hostility was not due to any inherent defect in the bill but to certain extraneous factors. The fear was expressed that under the new dispensation the moffusil colleges will occupy a subordinate and a comparatively obscure position and it was argued that moffusil colleges beyond the ten-mile area imposed by the bill might be included as constituent colleges so that they might develop as future University centres. Though the Moffusilites are predominant in the Council, the majority of them possess little or no University education, and when veteran educationists like Dr. Macphail, Rev. W. Meston and Mr. C. R. Reddy threw the entire weight of their influence and eloquence on the side of the Minister, the result was foregone conclusion.

But it was reserved to the Minister for Local Self-Government to introduce the most controversial and the most far-reaching piece of legislation—the Religious Endowment Bill. The enlightened Hindu public opinion had been clamouring for more than half a century for an enactment of this kind. The Indian National Congress of old days year after year pressed this reform on the attention of Government. Succeeding generations of legislators in the old Provincial Councils attempted legislation on the subject but could not make any headway against the cry of "Religion in danger" raised by vested interests and orthodox conservatism. The Governments of those days for obvious reasons could not take the initiative in a matter so easily liable to excite the religious susceptibilities of the Hindus. This bill, entirely the product of the Hindu Minister, was much in advance of those that preceded it. It was designed to check unnecessary and costly litigation—the national pastime of our country. It sought to place the control of funds and the management of the Temples and Mutts under a Board of Commissioners analogous to the Charity Commissioners in England. Trustees and committees were placed on a broader elective franchise. Provision also was made for the diversion of funds for purposes for which the Endowments were not originally intended, *viz.*, for objects of utility like sanitation and education. Vested interests cleverly

engineered opposition. Members of Council were never more sought after than in those days. The wrath of the Gods was invoked on the Minister. Nothing undaunted the Minister pushed the bill through. During its passage every inch was contested and in spite of over 600 amendments—thanks to the party whips—not one was carried against the Government. But in spite of this grand achievement the Bill was not placed in the Statute Book. The old cry of "Religion in danger" was again raised and it passed from lip to lip till its reverberation reached the distant heights of Simla and the Bill has been recommitted to the new Council for a reconsideration of some of its important provisions. The packed majority of the Minister is gone alas! never to return. Some of the stoutest champions of the Bill have since crossed the floor. Many a henchman who gave ungrudging and unquestioning support is no longer in the Council and if the Bill should be passed again, it must be with the help and support of the non-Hindu members of the Council who have no abiding interest in the legislation.

But the fortunes of the Irrigation Bill, which related to the rights and liabilities of landlords and tenants in the matter of Irrigation were quite different. It was foreshadowed as early as 1921 but was not actually introduced in the Council till March 1923. The measure was prepared with great care and elaboration and in introducing it, the late lamented Sir K. Sreenivasa Iyengar gave a lucid exposition of the law of Irrigation. With great pains he reviewed the various decisions of the courts, traced the history and explained the implication of Sovereign rights in the soil and compared and contrasted the English and American law on the subject. It was a masterly treatment of a dry and technical subject which in another place would have won the plaudits of the luminaries of the legal lore. But in an assembly of mediocres it was received with cold silence. The Bill was popularly called the Poorman's Bill and what would otherwise have been its chief recommendation became its only stumbling block. The Zamindars left no stone unturned to prevent its introduction. They are not only well represented in the Council through their special constituency but have in large numbers come in through the door of the general electorate too. Besides their great influence has helped many others to get into the Council. The lesser landlords whether owing to vanity or ignorance were persuaded or had persuaded themselves that the bill was in some unimaginable way going to affect their interests too. The opposition which constituted the brain of the Council supported the bill openly. But when the division bell rang and poll was taken, it was found that 19 voted for, 57 against and 10 remained neutral. It was a remarkable step for a moderate Council to throw out an important Government measure at the first reading. The Law Member could not survive the shock and he threatened to resign. His Excellency the Governor was faced with the alternative of either accepting his resignation or dissolving the Council. The members defied the consequences of a dissolution as it was the fag-end of their terms and the advantages of a sudden dislocation were all on their side. The Governor with greater discretion than valour chose the former alternative and in proroguing the Council made a statesmanlike speech casting no aspersions on the Council but promising another bill in the near future to suit their tastes. A bill was given when the new Council was formed but it was much more objectionable than the one thrown out.

But then circumstances had changed. The substantial and continuous majority of one party in the Council was no longer there. The party in power which had just emerged from the elections in diminished numbers was in no hilarious mood to face a dissolution. The late Law Member has been succeeded by another who though not gifted with the brilliance of his predecessor has genius of a different kind. By his tact, diplomacy and suavity of manners he has established personal ascendancy over one section of the House independent of the Ministerialists, and the Waverers and Independents were soon drawn into the vortex by a remarkably telling speech which made up for lack of illumination of the provisions of the Bill by an appeal to the imagination of the members. He conjured up visions of rivers overflowing their boundaries and tanks and ponds transcending their limits, if only the Bill was passed, and he foretold an era of such plenty and prosperity in the land from Ganjam to Cape Comorin which made the mouths of the members water and elicited loud applause. In the result the Bill has been introduced despite the heroics of a handful of Swarajists and the obstruction of a few Zamindari interests.

The residuary powers vested in H. E. the Governor under the Instrument of Instructions called the power of certification was rarely exercised and even then in matters of minor importance which excited little comment and no resentment.

The late Madras Council possessed advantages which no other Council had. It was dominated by a party from whose ranks the Ministers were drawn. There was, though small yet a vigorous opposition having no iconoclast programmes but always exercising an invigorating and sobering influence on the majority party and to their efforts must be attributed the breadth of vision and a national apart from parochial and communal outlook which was plainly discernible in the debates of the Council in the latter years of its existence. The members to a large extent were drawn from the aristocratic and upper middle classes and they were large-hearted men of liberal sympathies and passionately on the side of law and order and if either owing to the maladroitness of the Party leaders who from the very novelty of the situation wielded unlimited control over them they were led into many a pitfall or owing to the incorrigible conservatism of the Bureaucrats achievements in many directions became impossible, the fault is not entirely theirs.

E. PERIYANAYAKAM.

Memorandum by Sir K. V. Reddi, M.L.C.

In the absence of a definite questionnaire it is difficult to formulate one's views and to make specific proposals. From the reference to the Committee, however, what is expected of witnesses is stated to be to point out the difficulties arising from, or defects inherent in the working of the Government of India Act and the rules thereunder, and to suggest remedies for such difficulties or defects consistent with the structure, policy and purpose of the Act. Such suggestions should be capable of being given effect to under the Act and rules as they exist at present, the amendment of the Act being contemplated to the limited purpose of rectifying any administrative imperfections.

2. Within the limited scope allowed under the above reference, it may not be impossible to make a few suggestions and I shall make them at a later stage, but I will not be true to myself or my country if I, with such knowledge and experience as I happen to have acquired during the 3 years of my office of minister under the reformed Government in the Presidency of Madras, do not give expression to the conclusions I come to on such knowledge and experience.

3. It is admitted on all hands that dyarchy has failed. Even in the province of Madras where an honest attempt has been made to work the Reforms in the spirit in which they were conceived dyarchy has absolutely failed. The defects of the system were sought in this province to be got over by a Combined Cabinet system. Though such a process does not seem to have been contemplated by the Act itself, certain recommendations of the joint Committee of the Houses of Lords and Commons on Indian Reforms were taken advantage of and almost every question whether falling under Transferred or Reserved Subjects was discussed in the Cabinet and some sort of agreement arrived at. There used to be a meeting of the Cabinet almost every week, but I cannot help remarking that though in the first year and half or to be more accurate as long as Mr. E. S. Montagu was in office as Secretary of State for India the Ministers were able to hold their own against the Executive Councillors, there was a marked fall in their power and influence after his resignation. The Ministers were only 3 and the Executive Councillors were 4 and the former have often been obliged to yield to the latter. True the latter had more experience and were better equipped but the spirit of Reforms was not there. The administration in the latter days did not differ in any appreciable manner from the pre-reform days. I do not deny that the system of important questions being discussed at the joint meetings of entire Cabinet had its own advantages in the first period that I am speaking of. It must not, however, be forgotten that it was not the dyarchic system as conceived in the Act but an attempt to ignore it and get over its inherent difficulties, that made it possible to achieve the little success which Madras is believed to have achieved.

4. The principle of responsibility introduced by the Act into the administration of Transferred Subjects has not also been sufficiently given

effect to in practice. Though we in Madras have not gone to the lengths to which Bengal is driven where the Ministers continue in office and are being paid their salaries even though a majority of the Legislative Council have reduced those salaries to nothing by a vote in the budget demands, yet even in Madras it cannot be claimed that the sense of responsibility has made its mark, certification under Section 72D, not being uncommon in this province. The regrant of rejected demands sometimes in their old naked form, at other times in a different garb, were often made. Very often too, ministers were unable to carry out schemes costing very little of money and for carrying out which they had the mandate of the country and of the Legislative Council, because the Finance Department and the Finance Member made it impossible on the strength of the powers vested in them. Equally often too were the ministers able to avoid defeats in the Legislative Council mainly with the votes of the official and nominated members.

5. I mention the above facts not because I am one of those who demand an immediate revision of the Government of India Act, with a view to secure immediate dominion status, but only to show that those who so demand are not altogether unreasonable and that their apprehensions that the Reforms Act has failed in its purpose and that sufficient or even the anticipated advance has not been made, are not altogether unfounded. The promised goal of the Act is the realisation of responsible Government in India. True it is to be a progressive realization and is to be achieved by successive stages, but substantial steps are intended to be taken at every opportunity. The development of self-governing institutions is also promised, though here again the development is to be gradual and the time and manner of each advance can be determined only by the British Parliament. We have also been promised that provinces are to be given in provincial matters the largest measure of independence. All these promises found a place in the preamble to the Government of India Bill of 1919 as amended in Committee and though they do not form part of the Act as I now find it printed, yet it is presumed that these promises are still considered binding by all responsible authorities, by the Government of India, by the Secretary of State for India, by the British Parliament and the British Nation. I do not think I am exaggerating when I say that the majority of these promises have not been appreciably fulfilled in this country and the experience of 3 years of the working of the Act has shown that nothing real has been achieved. It is true that we have a sort of responsible Government in the provinces, that we have been initiated in the provinces into institutions that can be called self-governing, that Indians have been associated in several branches of Indian administration to an increasing extent and that the provinces have been accorded a certain measure of Independence of the Government of India. But unfortunately experience, short though it is, has disclosed that these reforms are not at all sufficient and that they have not at all made any marked impression and that they fell far short of the expectations of the people of this country. Recent events have shown that the provinces are not really free from the control of the Government of India and what is more important that Whitehall has been exercising over Simla as much control as ever. The Indianization of the services has been slow and the recent report of the Lee Commission has made it impossible to fulfil the promise in this matter. Responsibility in the Provincial Governments is not real and no development of self-governing institutions is visible. No wonder that a Nation

whose consciousness has been awakened not so much by the fulminations of the Non-co-operators, not even by the solemn utterances of their great leader but by the Government of India Act itself and by the declarations of British statesmen, has found itself in a despondent condition. Professor Richard replying to Viscount Curzon in the House of Commons about the middle of April last said that the Government of India were at present investigating the shortcomings of the Act with the concurrence of His Majesty's Government with the view to investigate the present constitutional situation and to determine whether there was any ground for deciding that the question of further modification should be considered. The Premier in his York speech is reported to have said "We mean to be serious. We mean that an enquiry would be held to produce results which will be the basis for consideration of the Indian Constitution, its working and possibilities in which we hope we have Indian co-operation on the journey to creation of a system which will be self-governing." The recent debate in the House of Lords however has given the go-bye to all these utterances. The reference to the Committee itself is disappointing, and if witnesses are to limit their answers to its strict terms, no appreciable advance can be hoped for. I hope to be pardoned if I should therefore go beyond the said terms and make suggestions which may not fall within the limited scope of the reference.

6. I am not enamoured of the memorandum of the constitutionalists recently submitted to the Secretary of State under the leadership of Mrs. Besant. Nor do I share the views of the Legislative Assembly as disclosed in the resolution carried by that body on 18th February 1924, though at the same time I cannot accept the many objections raised by Sir Malcolm Hailey, for such objections, for instance, as are based upon the existence of the Native States or the absence of a purely Indian Army or Navy capable of defending India's shores, can always be raised. It is a sort of argument in a circle like the Telugu proverb "The boy cannot be married until his madness is cured and his madness cannot be cured until he is married." But certainly there is no point in objecting to the appointment of the Statutory Commission provided for in Section 84A. It is no doubt true that Section contemplates the appointment of such a Commission at the expiration of 10 years after the passing of Government of India Act of 1919. But Mr. Montagu himself has said in the Parliament "There can always be a Commission appointed in the interim. What the Act says is that there must be a commission appointed at the end of 10 years."

7. My first suggestion therefore is that a Statutory Commission should at once be appointed with a view to make suggestions (1) for a further advance being made in the realisation of responsible Government in India, (2) for the grant of provincial autonomy, (3) for the introduction of a measure of responsibility in the Government of India and the Legislative Assembly, (4) for the relaxation of the control of the Secretary of State over the Government of India, (5) for the construction of an Indian Navy and the gradual Indianization of the army.

8. Having given expression to my views as regards the directions in which advance should proceed I shall now try to point out the administrative imperfections, difficulties and defects which the experience of the last 3 years has disclosed.

9. As minister for development from 17th December 1920 to the 17th November 1923 I was in charge of the following subjects :—

(1) Agriculture.

(2) Civil Veterinary Department.

(3) Co-operative Societies.

(4) Development of industries, including industrial research and technical education.

(5) Fisheries.

(6) Weights and measures.

It will be noticed that I was a Minister for Development without the Forests which in this province is a Reserved subject. I was the Minister for Agriculture minus Irrigation, again a Reserved subject, which has been in the hands of the Law Member while Public Works Department whose entire staff also looks after Irrigation is a Transferred subject under another Minister. As Minister of Agriculture I had nothing to do with the administration of the Madras Agriculturists' Loans Act or the Madras Lands Improvements Loans Act. An attempt made by me at one time, only to make a few suggestions regarding the administration of these Acts, was considered *ultra-vires* and a serious encroachment upon the rights of the reserved half of the Government on the ground that no file could be started by a Minister in any of the Reserved subjects, the initiative being always with the members of the Executive Council in all matters connected with Reserved subjects. Famine Relief of course could not be touched by the Minister for Agriculture. The efficacy and the efficiency of a Minister for Agriculture without having anything to do with Irrigation, Agricultural Loans, Land-Improvement Loans, and famine relief is better imagined than described.

10. Then again I was a Minister for Industries without Factories, Boilers, Electricity and waterpower, Mines or Labour, all of which are Reserved subjects. Forests which supply so much material for Industries is also a Reserved subject in Madras. How a Minister for Industries can co-ordinate his work in Industrial Development with a ban not to touch any of the subjects so intimately connected with it, and without the least power to have a hand in them, it is impossible to conceive. At the suggestion of the Governor and in fact on his command I once prepared a note with a view to give certain powers of initiative now enjoyed by District Collectors and the Board of Revenue to be transferred to the Director of Industries in the matter of mining Concessions. Down came the thundering bolt of the Finance Member smashing my note to pieces on the solitary ground that a minister cannot take the initiative in subjects Reserved. The fact that I did so under the orders of the Governor was nothing. The circumstance that the Director of Industries who was directly working under me had long been looking after matters connected with mines and assisting the Board of Revenue, was a matter of no consequence. My note had to be dropped like a hot potato, the Governor who ordered me to prepare the note having surrendered to the objection.

11. In the Madras State Aid to Industries Act there is provision for the supply of raw materials to new and nascent industries with a view to reduce the cost of production and thereby to encourage the Industries. This raw material is mostly found in the forests, fuel a substitute for coal,

bamboo for the paper industry, soft wood for pencils and the like. But forests being a Reserved subject the Minister who has to administer this Act can do nothing, cannot grant the facilities, cannot give these raw materials under concessional rates for which provision is made in the Act without the sanction of the Member for the Forests. Similarly raw materials for the Dye-Industry such as barytes come under the mines, under the control of the Revenue Member as also the grant of land free or on a low assessment for building factories and the Minister is powerless here also. Again Electrical power is in the hands of another Executive Councillor and if the Minister wishes to grant concessions under the Act for the generation of Electricity to develop Industries he cannot do so except with the sanction of the Member.

12. The only remedy that I can think of for the above defects is complete Provincial Autonomy. Of all departments the Finance Department is the most powerful and experience has shown that if that Department and its Member take into their heads to object to any scheme, it is practically impossible to get it through, though the Minister concerned may be keen on it and though the Legislative Council may be backing him up. I can cite a hundred instances in which the Finance Department and Member have defeated and delayed my schemes. Even when such schemes were accepted by the Cabinet, devices were found to defeat them or at least to delay them till the end of the official year and that compelled me to start at the very beginning once again. Full two years have been spent and to no purpose in my attempts to appoint Mr. Ghosh who did similar work in Bengal, in order to investigate our forests and see and report whether any wood fit for matches is available therein. The anticipated cost was a paltry sum of Rs. 4,000. I could not get this little scheme through simply because Finance did not like it. In another case a sum of Rs. 48,000, the expenditure of which was sanctioned in Cabinet was not allowed to be used by me and the most annoying suggestions were made in Finance. Whenever I suggested any scheme, involving least expenditure, Finance used to send it back saying that the expenditure might be incurred from the Rs. 48,000 though that sum was expressly intended and sanctioned for specified purposes entirely different from the schemes referred to above. My experience with the Madras Finance Department and Member was most unfortunate, annoying and soul-killing. If there was any impression that was left most indelibly on my mind when I left office, it was this that no progress was possible without "Finance" Subject being transferred, if full Provincial Autonomy cannot be granted. In any case the interference of the Finance Department and its Member with the Minister's proposals should be limited to financial grounds and should not be extended to cases based on grounds of difference of opinion on questions of policy. It should be also made a rule that once a scheme has been approved in the Cabinet and a certain sum of money agreed to be allotted to that scheme, it should not be possible for the Finance Department or Member to raise further objections against the carrying out of such a scheme.

13. Every proposal for expenditure from every Department must pass through the Finance Department. The result is that all schemes in the Transferred Departments are fully known in all details to the Finance Department and the Finance Member and through them to the Reserved Half. On the other hand what is passing in the Reserved Half will not be known to the Transferred Half unless any particular subject comes up before the Combined Cabinet and that comes there only at the latest stage. The

disadvantages of such a system are obvious. One such disadvantage, however, may be mentioned in particular. The Reserved Half knows what sums are available for reappropriation, the Transferred Half does not know. With the knowledge they possess of the existence of funds, the members of the Executive Council apply for re-appropriation at a comparatively early stage. The Ministers are often too late in their applications. The Executive Councillors therefore get larger sums by way of re-appropriation and thereby are enabled to carry their schemes through. Now such disadvantages will always exist as long as Finance is a Reserved Subject. Either it will have to be transferred or the devolution rules will have to be completely altered. But complete Provincial Autonomy alone can adequately solve these problems.

14. In the view I take it will be unnecessary to detail the defects of the Present System for all of them are expected to be remedied by the introduction of complete Provincial Autonomy. I may, however, mention some thing about the Rules. I shall first refer to the question of the Services. Under the rules of business it is open to the Permanent Secretaries to take a case to the Governor without the knowledge of the Minister. The Heads of Departments are not, under the rules, to approach the Governor except after intimating their intention to the Minister or to the Permanent Secretary of the Department. But very often the Minister knows of this only after the Head of the Department had discussed the case with the Governor. Again all the Imperial Officers appointments and transfers, etc., are finally made by the Governor and the Minister has very little choice in the matter. The Minister is responsible for the administration of the Department the Head of which may not see eye to eye with him. Even in the appointments of Provincial Officers I understand there was some change after I was out of office. While I was in office Heads of Departments used to put up proposals for filling up Provincial appointments The Permanent Secretary would then examine the proposals and the Minister used to pass the final orders, the power of passing such orders having been delegated by the Governor to the Minister; I now understand that this delegation has been withdrawn. Proposals to fill up places are now made by the Secretary or the Head of the Department and they go direct to the Governor who makes the appointment, the Minister to whom a copy is supplied, having the opportunity of objecting to it, but only on the ground of inefficiency of the candidate proposed. This powerlessness is detrimental not only to the prestige of the Minister, but also to the efficiency of his administration. The services can have no respect for him.

15. I may next refer to the enormous powers of control vested in the Governor under the Act and the rules framed thereunder. In one sense these powers are even greater than what the Governors of Provinces enjoyed in the Pre-Reform days. In fact there is nothing which he cannot order. Responsible Government and Democracy have thus become unreal. It will be unnecessary to detail these powers and explain their effect upon Democracy or Responsibility. One has only to refer to the numerous sections in the Act and the Provisions in the Rules. It is not at all my desire to say that the Governor should not have powers to check abuses. to prevent dead locks and generally to see that the King-Emperor's Government is carried on. But at present he can interfere at almost every turn of the wheel of Government machinery. This ought to be remedied. His position must be, as far as possible, with due regard to Indian Conditions, made approximate to the Colonial Governors.

Proviso (*b*) of Sub-Sec. (2) of Sec. 72D of the Act should be repealed. Rules framed under Sub-Sec. 5 of Sec. 72D require amendment. At present no question can be asked, no resolution can be moved, which involve any action taken by the Governor even in Transferred Subjects. While I strongly stand for the prerogative of the Governor, I must point out the unreality of responsible Government when an act done in the Transferred Department, in the name of the Governor cannot be discussed in the Legislative Council.

16. The provision of law in Section 72B (2) of the Act enabling the Governor to summon the Legislative Council wherever the Governor pleased and to refuse to call its meetings for months together must be altered. As long as there is business to be done whether it is Government or Private business the Legislative Council should be asked to sit from day to day continuously. There must also be one meeting every month. There will always be grievances which can be ventilated in the Legislative Council alone and long intervals between one sitting and another have caused grave political inconveniences. Last year the Madras Legislative Council did not sit from the 2nd week of April till the 2nd week of September and a meeting of the Legislative Council contemplated to meet in August 1923 was abandoned on political grounds and not upon State or Administrative grounds nor upon any grounds of public convenience.

17. Great inconvenience is also experienced in strictly following the rules issued by the Government of India regarding the procedure to be adopted while Bills are on the Legislative anvil. These rules were hard and exacting enough before 1923. But certain alternations made in the beginning of that year caused greater inconvenience. Every amendment of importance made in the Legislative Council of any clause in the Bill has to be forthwith communicated. The delay and inconvenience caused by such rules was felt very much indeed.

18. Difficulties are also experienced, almost of an insuperable kind, for private Bills to be introduced into and got through the Legislative Council. The present restrictions should be relaxed and greater facilities should be afforded in this matter.

19. Sec. 81A of the Act which provides for the return of Bills to the Legislative Council by the Governor does not fix any time limit for such return. The vicissitudes which the Madras Religious Endowments Bill has passed through must be a sufficient proof of the need for such a time limit.

20. A definition of the word "Session" should be incorporated in Section 134 of the Act.

21. In the Transferred Subjects temporary administration Rules framed under Section 52 (3) of the Government of India Act provision is made to the effect that in cases of emergency, where owing to a vacancy there is no minister who is in charge of a Transferred Subject, the Governor himself should administer the department of such Minister and in that capacity he is empowered to do all that a Minister could do and all that a Governor could do. Only he shall not exercise, in respect of such subjects, the powers conferred on him by Section 72E (Certification of Legislation) of the Government of India Act. Now the powers of a Governor minister should in my opinion, be further restricted. For instance he shall not do anything, shall not make any appointment and

shall not initiate any policy which the previous minister had already objected to or disapproved.

22. Under the Government of India Act powers of control regarding Transferred Subjects are vested in the Secretary of State and the India Council. In the rules framed under Section 19 (A) of the Act, the powers of such control have been limited to 5 cases which may be called exceptions to the removal of control, direction and superintendence. But these exceptions are big enough to eat up the rule. The same may be said of the limitations imposed upon the power of control of the Governor General in Council over Transferred Subjects as prescribed in Rule 49 of the Devolution Rules. It is difficult to suggest an alteration of the Rules framed under Section 19 (A) ; but the powers now retained in the Secretary of State under these rules are still too large.

Again no corresponding obligations are imposed on the Secretary of State for helping the administration of the Transferred Subjects. One instance may perhaps suffice to make my meaning clear in this connection. The Madras Government granted a scholarship tenable for three years to a student who was to receive practical training on Hydro-genation on the large scale, that is, on a factory scale. Every attempt made by the Development Department of Madras to secure admission for the student in factories in Great Britain has miserably failed. The Secretary of State for India and the High Commissioner did not compel any factory whose produce they might have perhaps been purchasing by several lakhs every year, to admit the student. I know that there is no way by which the Transferred Half of a Provincial Government in India can compel the Secretary of State for India to discharge such an obligation. But the moral effect of recognition of such an obligation embodied in a rule of law framed under an Act of Parliament will have its own value and Local Governments in India must be content with such small mercies.

23. Under the Local Government Borrowing Rules framed under Section 30 (1-A) of the Government of India Act the borrowing powers of Provincial Governments are no doubt greatly enlarged. But the restrictions contained in Rule 2 have caused great inconvenience and require to be relaxed.

The provisos (*i*) and (*ii*) of clause (*a*) of Section 2 should altogether be removed and Local Governments should be enabled to borrow to meet expenditure on the construction of any work or series of works to be completed in pursuance of a programme, such as the construction of hospitals or residential quarters to officers in the Districts, or, to meet any capital expenditure such as the establishment of a new University and the construction of buildings therefor. Further there shall not be any objection to a Local Government borrowing in the Local Market except perhaps when such borrowing seriously affects the borrowing facility of the Government of India.

24. I refrain from making any comment on the recent alterations made in the rules regarding Supplementary grants. The rules previously existing were strong enough to support the " weak joint " of Executive expenditure. To make them stronger might spell the negation of the popular control over State expenditure.

25. According to the rules as they obtain in this Presidency, if a Minister wishes to see any file or a Government Order passed in another

Department, he has to ask for the permission of the Member concerned and it is only after obtaining such permission the file or Government order will be supplied to him. But this disability does not exist in the case of a Permanent Secretary attached to the Minister. In one case a Government Order regarding the scale of pay and increments of Deputy Collectors was supplied to the Permanent Secretary of the Development Department for which I was the Minister. I wanted to see that Government Order but I could not see it until I obtained permission of the Revenue Member, though all along it was lying on the table of my secretary having been supplied to him in the ordinary course.

26. Perhaps it may not be out of place in this memorandum to urge for a revision of the Devolution Rules 17 to 20 regarding Provincial contributions to the Government of India. The heavy burden, known in this province as the iniquitous Impost of 348 lakhs of rupees every year, has made progress impossible in any direction and particularly in what are called the National Building Departments. There is a vast literature around this subject and it is unnecessary for me to say more, but I may be permitted to say that any revision of the Rules must necessarily be incomplete without a reconsideration and recasting of Provincial contributions.

27. While pleading for Complete Provincial Autonomy it is essential to urge for a re-distribution of the provinces on a linguistic basis. The present arrangement of provinces is a haphazard one entirely due to Historical circumstances of conquest and secession at different times. The linguistic basis was recommended by the joint Committee and if that suggestion was not taken up and resolutions were not moved in the Provincial Legislative Councils, it was not because the need was not felt or the importance appreciated but because political considerations intervened. Full Provincial Autonomy will be unreal without the Provinces being reconstituted on a liguistic basis. On that basis the provinces will no doubt become much smaller than they are at present but that will result in greater efficiency. Many difficulties in administration will be removed and greater good could be done to the people.

Dated 6th August 1924. K. V. REDDI.

Memorandum by Mr. C. R. Reddy, M.L.C., Madras.

DYARCHY AND RESPONSIBLE GOVERNMENT IN INDIA.

PRINCIPLES OF REFORM.

C. R. REDDY.??

The enquiry into dyarchy now being conducted by the Muddiman Committee affords a good opportunity to review the system as a whole and to pronounce judgment on its value as a measure or even means of responsible Government. I shall write with special reference to its history in Madras, as it has been claimed that it was a success there, though nowhere else; and while the waters of the Ganges and other lordly rivers proved inadequate sustenance, the smelly Cooum provided full nourishment for this exotic plant. After all dyarchy was intended for the whole of India; and the very claim that it throve or could thrive only in one province and no other, is a doubtful compliment to its suitability to the country. Further if dyarchy could be shown to be in essence and nature a species of irresponsible Government, its success in my province could only demonstrate the unfitness of that province for responsible Government.

DYARCHY—AN HONEST-ERROR OF JUDGMENT.

It must be frankly and fully admitted that the system was introduced in good faith and with the honest intention of giving an earnest of the historic Cabinet declaration of August 1917 pledging England to the evolution and grant of full Dominion Status to India. I do not think that Montagu was a Machiavelli, or Chelmsford a man of half truths and mental reservations. The very fact that they had to fight hard against the bureaucracy here and the die-hards in England is testimony to their sound heart.

Politics unfortunately is not astronomy; it is a moral art and not a mathematical science; man and circumstances in their infinite varieties and mutations intervene and render forecasts difficult. And so it comes to pass that in this field good intentions do not always lead to correct judgments.

Let me emphasise once again that a step in the right direction was unreservedly intended. Those were days of war idealism, which, however evanescent was not wholly insincere; and it was strengthened by the fall of Kutt and the consequential ugly possibilities in the Middle East. India's War services were remembered with pride and gratitude and England came very near to the grand concept of Roman Imperialism based on the equality of all her citizens, and seemed to be able to transcend her ingrained racialism. In devising the scheme itself, British Statesmen went one better than what some Indian Leaders suggested and adopted the principle of a Removable Executive, which was a clear advance in the direction of responsible Government.

And yet the actual system installed is neither a form nor even a means of responsible Government. It is in essence bureaucratic and irresponsible and comes very near being a phase of die-hardarchy.

Opposition and Responsible Government.

Before I proceed further with the argument, I had better comment on the unconscious light thrown on the Government's own idea of responsible Government, by the fact that the Muddiman Committee, while welcoming ministers and ex-ministers to give evidence, has completely ignored the existence of oppositions and opposition leaders and has treated the whole matter as one primarily concerned with the definition and improvement of ministerial positions, as though ministers were intended to occupy places permanently and shine like fixed stars. Any system of responsible Government must be so contrived as not to render the position of an opposition helpless and hopeless, as otherwise no alternative Government would be possible and no responsibility could be enforced. The ultimate factor is or should be the electorate, of which the opposition are as much an organ as the ministers and their followers. What the opposition has been reduced to under the rules and rulings now current, could best be described only by opposition leaders; and this enquiry into the working of the Reforms proceeds on the assumption that oppositions either do not or should not exist. How impossible it is to get the bureaucratic leopard to change its spots!

Read the Act, the Rules, Presidential Rulings (excepting those of Sir Rajagopalachari and Sir Rahimatoollah); and the only conclusion that could be drawn is that the existence of an opposition is not contemplated; and still less desired.

India is to have that "flower blooming in the vault of Heaven," *viz.*, responsible Government without an opposition! How is this different from the older Councils, including the Morley-Minto creations? Is it not in essence irresponsible Government, however much the Councils are enlarged and democratic veneer applied?

To avoid misunderstandings, as I happen to be in opposition myself in the Madras Council, let me say clearly that all that is asked for is a just balance and no loading of the dice against the opposition. No constitutionalist be he on the ministerial side or opposite, would ask for any favour but only fair play. And as I shall show fair play to critics and opponents does not find a place in the vocabulary of Government or the ministers who are no more than its creatures.

The Dualism of Minister *versus* Governor not the Entire Problem of Reform.

One of the fallacies into which enquiries into dyarchy may fall is to think that the question of position of ministers is co-extensive with Reforms and responsible Government; and that the major elements like the Electorate and Councils may conveniently be ignored. Well, it may be convenience, but it certainly is not constitutionalism. The recent speech of the Education Minister in Madras on dyarchy—a remarkable piece of analysis and argument—suffers from the narrow, if natural, limitation of view that the Reforms

exist for the ministers and he has not a word to say on the root questions where Councils and country come in. Mr. Chitnavis's evidence runs in the same strain ; and under the limitations in which the Muddiman Committee is holding its concert, there is grave risk of ministerial screeching being mistaken, by distant or interested ears, for the full volume of national music.

I wish also to state that I am not prepared to hold Government entirely responsible for all the defects found in the machinery or developed since it started working. The country must bear its share of blame too, though I am inclined to think that it is the smaller share.

The success or failure of dyarchy has to be judged from the point of view of responsible Government and more particularly that form of it which goes under the name of Cabinet Government or Government by a Removable Executive.

Dyarchy and Party.—Responsible Government of this type is best secured under some kind of party system, as otherwise it would be difficult to know what principles a minister stands for and for what policy he should be held accountable. If he is appointed as a clever or convenient individual, he is but an administrator of the official type, a bureaucrat selected from the M. L. C.'s but still a bureaucrat. The conservative press in England and the European Press in India which is naturally Re-actionary, make a great point of the fact that parties have not yet come into existence in India and are never tired of proclaiming it as one of the chief grounds for withholding from us the larger liberties and responsibilities which they profess to be so anxious, without being eager, to bestow. In the series of our unfitnesses for self-government, this receives prominent place and advertisement. I am not prepared to deny that this is not a weak chain in our armour, but analysis would prove conclusively that the dyarchical system is no cure for this malady but its positive aggravator. If this could be established—and I hope to be able to convince all unbiased minds—then it follows that people professing sympathy with our aspirations for Home Rule should join us in repudiating dyarchy and getting it replaced by a better system of Government.

The causes for the lack of genuine political parties in India must be sought for not only in the internal conditions of the country but in the dyarchical system and the way in which it has been worked.

Party and the Internal conditions of India.—As regards the internal causes, the two most prominent are (1) class and communal interests and (2) the depressed classes. Under class interests I include Land-holders, Chambers of Commerce and other groups devoted primarily to the safeguarding of limited economical or social interests. Under communal I include the great All-India problem of Hindu-Muslim entente and the minor antagonisms like that of Brahmin and non-Brahmin in some Presidencies. The reason why I have bracketted these as one factor is they relate to people, who I think need not be either specially represented at all or could get their interests, including elevation of some of their members, secured through ordinary constituencies. The only country in which a diversified franchise as fanciful as that adopted in India prevailed was the old Austro-Hungarian Empire and that has been blotted out of the map of the world. So far as I am aware Chambers of Commerce and Land-holders do not receive special representation in any of the popular

chambers now existing in Western countries; in the Congress, House of Commons, the Chamber of Deputies, and such other bodies as would naturally be taken as types of sound constitutionalism. In India the people themselves carry claims for special representation to exaggerated and absurd lengths. For instance the Marvadi Association, in its address to the Viceroy some 2 years ago, pleaded for a special representative to be elected by it on the score of its "*importance*." The reply given by the Viceroy applies with no less force to Land-holders and Commercial Chambers. In deprecating the idea of a special representative for each special interest in India, he very wisely pointed out that the fundamental hypothesis of Democracy all the world over was the confidence and trust of each special interest in the good faith and good sense of the people as a whole. The good-will of the people is a better defence of all legitimate special interests than special representatives whose numbers can in no case be so numerous as to count for much. If however no interest can trust the people let us wind up this hollow demand for Swaraj. It has always been a matter of surprise how such shrewd business men as the Marvadies could have put forward a claim which could only harm the nation without being of any good to themselves. Is a single Marwari amongst 100 M. L. C.'s going to be a greater prop of Troy than the general representatives, even granting that elections turn so entirely on caste as to preclude a Marvadi being returned? Suppose this argument is carried to its logical conclusion, would it not be necessary to make the Councils a reflection—a sad reflection—of our census classifications? Can a series of special interests constitute a national party? And do they not want national politics at all? And as for the argument of "importance" which community is there in India—excepting probably the forward Parsis—which is not absurd enough to appear as a beggar for special electoral alms at the hands of Government on the score of its special importance in its own eyes?

Muslim Representation.—The problem of Muslim and Christian and Sikh representation is different in its bearings; but it will be enough if we deal with the Muslims. Some assured representation to them is as much practical and inevitable politics as that of the Catholics of Quebec and only the details as to the mode of election and the number to be elected can form the subject matter of fruitful discussion. We need not anticipate the solutions that would be offered at different stages of our political future—granting that Hindus and Muslims will co-operate and secure a future. The Muslim League has been revived, but its resolutions breathe a nationalism somewhat alien to its former self. It remains to be seen if the change is going to be permanent or only marks a transition from strident Khilafatism to accommodating Aligarhism. So far as present facts and tendencies go, the Muslims will show the same political divisions amongst themselves into Loyalist, Liberal, Nationalist, Swarajist, Congress-Khilafatist, etc., that exist amongst Hindus, and will not act as a communal party except on occasions where communal interests are involved. They won't be a hindrance, as has been witnessed in Bengal and Delhi, to the formation of true political parties composed of both Muslims and Hindus having the same policies and pursuing the same methods. That a large outlook leads to a higher level of conduct has been in no small measure vindicated by the reaction of Khilafat on Muslim Nationalism. Some there were who feared that Muslims were using India as a pawn in the Pan-Islamic game.

Granting it to be so, they forgot that that very desire would lead them to keep India placed in a strong and advanced position, ready to be crowned with Swaraj. The reproach that Muslim outlook is more international than national is based on a half truth. You cannot be a force in International politics unless you are a nation first or at least a Dominion. It is the voice of the master that reaches the international forum, not that of the slave. This is one of the explanations for the transformation of Mr. Muhammad Ali from Loyalist Aligarite to the chief and most commanding colleague of Gandhi. It is true there are some Muhammadans, perhaps a large number, who have already relapsed into communal bargains as their highest politics and are purchasing Governmental favours in exchange for loyalism, which cannot be a principle but an expediency or stock in trade. But I doubt if they represent the real trend of Muslim politics, which is not likely to forget either India or such Muslim States as Turkey, Sudan, Egypt and Persia.

Communal Parties.—But all the same there is grave risk of men of the same community banding themselves into a party without reference to any political principles excepting opportunist bargaining for themselves. In the Madras Council the Indian Christians wanted to be a party by themselves—a party of some 5 members. One of the Christian representatives disapproved of the idea and joined the Nationalists, and the scheme was not realised. I happen to know that this gentleman has been found fault with by some of his co-religionists on the ground that he should always be on the side of whichever ministry was in office, so that the members of his constituency seeking official favours may find in him a likely sponsor. An attempt was made to band the Muslims into a Muslim party who would act independently, *i.e.*, in accordance with their own interests, by which is meant chances of official patronage. Amongst these too the idea was sedulously circulated that their interests are best served by being always on the side of Government and Ministry. It must be confessed with sorrow that this marks a big fall from Khilafat ideals, but there is consolation in the fact that such counsels were not acceptable to all of them and some four members joined the Nationalists while the rest are in a state of independence, *i.e.*, as against their own countrymen while cheerfully practising dependence on Government. There is further consolation in the reflection that no party can permanently be based on lack of politics or on the single policy of supporting Government as such without reference to any principles. If the entire Muslim community accepts this policy, there need be no elections amongst them at all, but they could just select their representatives by casting lots. If on the other hand elections are going to be a reality, they cannot be always fought on personal grounds, such as I am an M.A., B.L., and he is not, but large issues will come in. Manipulations of the kind above described are possible only after an election; they cannot serve as an election platform, and when the electorate becomes sufficiently alive to its rights and duties these personal groups of M.L. C's. will suffer unlamented dissolution.

Communal parties and responsible Government.—It cannot be denied that those communal groups, though they may be small, have created a real difficulty for the country. They lend themselves easily to official manipulation and to that extent serve to thwart our progress to nationhood. Even

more than this they cast a legitimate doubt on our fitness for nationality and self-government. The European Press, past master in the arts of propaganda and diplomacy, has exploited the situation in two ways. Firstly by influencing communal jealousies and vanities and encouraging them to ask for special representation or other protection; and secondly by turning round and declaring that these very things that it served to bring into unholy prominence, are the real obstacles in the path of Indian Home Rule, and taunting us with our inability to remove them. Seeing that Government and Europeans are not a disinterested party, it would be impossible to concede that non-communalism should precede Home Rule. As non-communalism prevails, Home Rule will prevail; equally true would it be to say that as Home Rule prevails, non-communalism will prevail also. For every country with self-government has to provide for interests which far transcend communal greeds in scope and importance. It has to provide for defence, an army, navy and so on; modern war and modern economics go together; and industry, commerce and science and applied science must engage the attention of Government and people to a degree inconceivable in this age of official jobs and favours. And when you are intent on building the nation's strength motives stronger than communalism will naturally come into effective operation.

Present phase of communalism in Madras.—And this truth has dawned on communal Madras. Till the other day under insiduous propaganda the non-Brahmin was led to believe that sitting on the Brahmin was Swaraj and no higher Swaraj was possible or desirable. It has slowly dawned on him that official jobs did not exhaust the whole field of noble endeavour—that repressive laws, treatment of Indian overseas, etc., made no distinction between the twice born and once born and that if you made a list of interests—land taxes, commercial and industrial policy, import duties, national rights, etc., they affected all alike; and while jobocracy would no doubt create disunion and let the hungry dogs fight each other for the few bones that are cast for their diversion, true nationalism united us and led all to the same goal of higher honour amongst nations and an economic policy calculated to fight our chronic and wide-spread poverty. Sitting on the Brahmin could not compensate for your own head being used as a foot stool by another.

It has also begun to dawn on us that the European sympathy for the so-called backward classes or minorities was but another application of the ancient British policy of keeping their rivals balanced in power, so that they could act as the influence that turns the scale and decides; that if they are for non-Brahmins to-day with a view to putting down the Brahmin, they would be for the Brahmin to-morrow in order to reverse the position; that similarly the Hindu is played against the Mussalman and the Mussalman against the Hindu with a view to perpetuate their own rule. The most notable instance of this policy is their denial of the fitness of Madras for full autonomy on the ground that parties here are communal in character and not political. This has staggered the non-Brahmins who fondly thought that in appreciation of the bureaucratic game they played as a communal party they would be richly dowered with power.

And the Non-Brahmin Minister for Education confessed in his Guntur speech a few days ago that the reward for which he sedulously practised Co-operation was not forthcoming. In order to prove the fitness of Madras for full powers he advanced the strange argument that at all events the Opposition was not formed on communal lines and therefore it was not true to say that political parties did not exist. Leaving aside the ethics of a man claiming merit for his opponent's good qualities, it shows clearly how communalism has defeated itself and stands condemned by its own champions. He added that communal questions did not form the major portion of the work of the Legislative Council. Though he himself did not draw the only sensible inference possible from his premises, being an Hon'ble Minister who must hang on, it is obvious to what sad plight social and cre lal parties had dragged down our politics and how impossible it is to build Representative Institutions on that foundation.

Party implies the possibility of converting another to your faith. Birth is hardly susceptible of conversion after it has once occurred. As a principle of politics it may play a minor part but it should never have been allowed to become the basis of Party.

The Delhi Assembly and Bengal Council have shown the right mode of advance. Let Muslims form a group drawn from the different National parties to which they may be attached in order to safeguard their special interests. On all other matters let them act as Members of the parties to which they are severally attached. Mr. C. R. Das's solution of internal racial problems by means of pacts as a means of consolidating Nationalism is the only right mode of approaching this subject. It has rendered a Nationalist or Swarajist Party composed of all creeds and communities not merely possible but a reality.

Let me add that Communal Electorates need not mean Communal parties, though I for one prefer joint-electorates with reservation of seats.

Viewing things in the broad it must be claimed with no small pride and gratification that the Leaders have done their best to surmount tribal and communal politics. But unfortunately Dyarchy itself renders the growth of party system impossible and acts as a dissolving force.

Dyarchy and Party System.

Without entering on a long analytical argument, I shall briefly summarise the ways in which Dyarchy encourages groups as opposed to parties and even promotes anarchical personalism in the Councils. No consolidation is possible until Dyarchy is replaced by genuine responsible Government.

(1) The Ministers are individually appointed by the Governor. They need not be men of the same Party. In the first Council Lord Willingdon followed the Western precedent of entrusting the formation of the Ministry to a Recognised Party Leader. But this experiment was given up in 1923 according to the statements made by the Ministers themselves on my No-Confidence motion. The reason seems to be that owing to the defeat inflicted by the Ministerialists on a first class Bill introduced by one of his Executive Councillors, he, perhaps, desired to weaken the Ministers so that they may not become too powerful. At the same time he chose them all from the same

Party. The "Chief Minister" has thus ceased to be a fact and has become a decorous fiction.

(2) As Ministers must or do vote with the Executive Councillors, who of course don't represent party, they may even have to vote against their own Party, even when there is a party. The Party leaders are thus tied to Executive Councillors to support whom no party men are elected. The Joint Committee allowed Ministers freedom to remain neutral when they could not support the Reserved Government. In their weak condition Ministers have thought discretion the better part of valour and obeyed the Government House which can dismiss them more easily than the Council, with a uniformity that no Civil servant could improve upon.

(3) M.L.C's. are elected on a general programme which embraces both the Reserved and Transferred Departments. They are not elected only with reference to Transferred subjects. If they function as a party they function thus with respect to both halves; whereas the Ministers can, if they dare thus much, act as party leaders only in their own restricted field. The idea of being party-men in one field and no party-men in the next is too absurd for realisation.

(4) Ministers too are elected on a general programme which embraces the Reserved section. Are they to be true to their election pledges or the Governor's orders? If they cannot act on their published principles, how is party possible?

Under Dyarchy Cabinet Unity and Party Unity are impossible. Under Responsible Government this is not merely possible but inevitable. Dyarchy is an unhappy compromise between Responsibility and Unity of Government in which to judge from the evidence of Mr. Kelkar neither seems to have been achieved.

(5) The presence of official and nominated votes amounting to over 40 or one-third of the Council—makes it possible for the Governor to carry on without any reference to any party; unless it happens to be overwhelmingly strong as the Swarajists are in Central Provinces; or the Nationalist-Swarajist combination is in Bengal and Delhi. Add to this the group votes—Christians, Muslims, Land-holders, Commercial Chambers, etc. Party is not possible except under Revolutionary conditions. Dyarchy precludes slow and gradual change and is a standing invitation for revolution. No small swings of the pendulum would suffice to bring about a change in Government as is the case in England; but a most violent oscillation, like the Swarajist sweep, is required.

Every Governor will try to carry on by humouring groups and individuals having some amount of personal following, so that he can have safe and docile ministers. In so far as he succeeds he is but perpetuating Bureaucracy under another name. Should the popular will prevail at all, it can only be under conditions approximating to revolution. The need therefore for consolidating all the Nationalist forces in all communities and groups under one banner is insistent. Otherwise there can be no salvation for the country. The Congress can help this consolidation by adding Council entry to its programme. When that happens there will be two parties in the country, the Congres

and the Pro-Government party. The intermediate shades and grades, which add to the complexity and weakness of the situation, will be absorbed by the Nationalists or Moderates and the Electorate will have an easier, clearer choice before them.

Dyarchy is responsible Government.—My analysis leads me to the conclusion that Dyarchy renders Party impossible and that as no true responsibility is possible without Party, the system is but camouflaged Bureaucracy. As it may be said that in politics theory need not necessarily be realised in practice, I quote a few instances. In the Punjab the Communalist, Mr. Fazal Hussain and the Nationalist Mr. Har Kishan Lal were members of the same "Cabinet." It is only in Dyarchy and in the Millennium that lambs and tigers could thus lie down together in peace. How can an identic responsibility be forced on ministers diametrically opposed in policy and wonderfully conjoined in office? The genius of the Comedian, Gilbert, must be summoned to find an accurate description and solution of this political puzzle. In Behar Mr. Madhu Sudhan Das continued to be for long an open and severe critic of Dyarchy as well as its Minister, until the opposite pulls snapped his official connection. According to the ethics of Responsible Government he should have ceased to be a Minister first before becoming an open critic. In Bengal Sir Surendra Nath was defeated time and again in the Council, but he surrendered not his office nor was the Governor good enough to remind him of his duty. In Madras, on a Party question like preference to Non-Brahmins in the matter of official patronage, and on questions on which the party was more or less unanimous like permanent Revenue settlement, the Non-Brahmins voted one way and the Ministers the other. Dyarchy is evidently intended to spread a fog under cover of which responsibility could be evaded. If Ministers and Party vote against each other when there is agreement, how can you infer disagreement from a divergent note? And could anything be worse calculated to provide confidence, responsibility or even common honesty? The Ministerial Party in Madras was opposed to the institution of the Staff Selection Board, which had the hearty support of Government and the Opposition. In the division the Ministers,—Officials (are Ministers very different or better than officials?) and the Opposition voted together and defeated the Ministerialists. And of course Ministers will never resign. You can thus have under this system the following constitutional curiosities, for which the League of Nations should provide a museum :—

Ministers can be defeated but its party can be victorious, *e.g.*, Resolution on permanent Settlement. Ministerialists can be defeated but Ministry can be with the winners, *e.g.*, Staff Selection Board debate. I do not know if Dyarchy was regarded as specially suited to the Indian genius; but I can confidently assert that the one genius with which it is in absolute rapport is that of Musical comedy.

Dyarchy and Cabinet Discipline.—Recently, the Madras Educational Minister delivered an extraordinary speech in Guntur which is remarkable for two indiscretions (*i*) revealing cabinet differences while yet in office, (*ii*) and revealing them after their existence was denied by his colleagues in the Council again and again, and himself had accepted the situation thus created I don't suppose that either the Governor or the Council would resent this improper conduct. Dyarchy is too tame for such purposes, and in fact thrives on such anamolies

"Irresponsible" Leaderships of Council is a negation of Responsible Government.—It has been argued some times that if a party could be formed, and if it is returned in overwhelming numbers, the Ministers could insist on a proper Ministry being chosen and by their influence on legislation dominate the Government. This contention not only ignores certification and other reserve powers of the Governor, but the fact that no Minister can openly lead and give guidance to the house, as Ministers do in England, but that the Leader is always the senior Executive Councillor. The man with the following cannot lead; and he only can lead who has no elected following. Irony! art thou the Presiding deity of the Reforms? And where they differ from the Reserved Government, Ministers may not express that difference, but preserve a silence which may be characterised as loyal or cowardly according to your point of view.

In the actual working Ministers have become an appendix of the Councillors; and such is the glamour of official position in India, that Ministers are content to be decorated slaves of the Imperial harem.

Ministers intended to be mere "officials".—Recent debates have shown that the very intention of Government was to assimilate Ministers to Bureaucrats and not *vice versâ*; or in other words to run the old merchandise under a new flag. And Government has succeeded, thanks both to the system and our character. It has been held by two eminent legal authorities in Madras, that the Rules framed under the Act proceed under the assumption that the new Councils are only an enlargement of the old ones, in which the popularly elected members were known as additional members of the Governor's Council, not intended to over-ride him but to extend his field of consultation and advice. Consistently with this view the Governors as pointed out by Mr. Kelkar, have claimed to treat Ministers as only advisers. Governors say "We have full authority in the Transferred Departments. You are our advisers, but we are not bound to accept that advice, though of course we won't over-rule you for the mere pleasure of over-ruling". Sir Patro confesses that in Madras, Ministers had originally all the power usually associated with their office; but that matters were changed recently and the Governor "*assumed*" control of all appointments, etc. Why did the Ministers in other Provinces start with this handicap? And why did the Madras Ministers suffer it to be put on them last January? It seems to me that our Ministers have tried every remedy except the Constitutional one of resigning. They recall the case of the man, to quote De Quincey, who always went about with a very dirty face; his friends made anxious enquiries; he complained that his was a terrible malady; that he tried many remedies, that physics, electricity, and magnetism had exhausted their resources, but the face *would* be dirty. They asked him "Did you try soap and water?" He replied "No"! Our Ministers seem to have been about as sensible and sensitive.

Minister after Minister betrayed the country—with the honourable and noble exception of Mr. Das of Behar and the U. P. Ministers. They ought to have resigned; a few resignations would have forced the issues to the front, but they did not. They deliberately sinned against their light. And The game lost by these craven Ministers has been retrieved by Swarajists. these Ministers could not have given us the Muddiman Committee.

Evidence of Ex-Ministers narrow and misleading.—Even to-day the view of the Ministers is limited and narrow and shows no grasps of Responsible Government and the Country's demand for the genuine stuff and no sham. The questions put and the answers given proceed on the basis that the universe of discourse is the position of Ministers. I dissent strongly as a Nationalist from some of the remedies put forward by the Ex-Ministers and Ministers.

Secretaries and Ministers.—I leave aside as matters of lesser import such questions as whether Heads of Departments should be empowered to appeal to the Governor against their Port folio holders, be it Ministers or Councillors. In Mysore whenever Government and the Head of a Department differ, the question is referred to His Highness; and this procedure has on the whole worked well. I do not see why an analogous state of things which has existed for a long time should be abrogated. The installation of Ministerial autocracy in place of gubernotorial may be the reverse of good for the Country's future. It may not be very different from the partition of the Country into Native States! In fact the Ministers and Ex-Ministers who have recently given their long pent up vent to their views have caught hold of the problem by the wrong handle, *viz.*, Ministerial power.

Responsibility versus *Ministerial power.*—It needs no argument to prove that the Central thing in Responsible Government is responsibility of Ministers and not power. True they cannot be responsible, as they plead, if they have no power. But then who asked them to hang on without power? If they cannot resist, need they obey? If they cannot be masters need they be slaves? Let responsibility be assured, and then they can have all the power they desire.

Responsibility to whom? This is the all important issue. The Madras Ministers in the debate on my No-Confidence motion and Mr. Kelkar in his recent evidence have said that the real, as opposed to theoretical or nominal responsibility was to the Governor. (In fact they are but tools in his hands, according to their recent confessions). The remedies they propose aim at giving them effective power as against the Governor. It is obvious that if they are made powerful as against the Governor while their responsibility to the Council remains at the same nominal quotation, without possessing real market value, we are no nearer constitutional solvency than now. All such suggestions must therefore be preceded or accompanied by proposals by which the control of Ministers by the Council in the first instance and by the Electorate in the final could be made more readily available and effective.

Let it not be forgotten that the Electorate should be the dominating factor—not even the Ministers or Council. I am therefore opposed to the following suggestions of Mr. Kelkar.

Panel-system of selecting Ministers.—(1) That till a party is evolved, Ministers should be appointed from a panel of M.L. C's. to be chosen by the Council. This will relegate the very Party system that Mr. Kelkar evidently desires to see established to the Greek calends and with it responsibility. By giving the Governor knowledge of the measure of support that each Panel-Wallah commands, it would help him to control the Council by means of combinators or individuals. And as at present they need not belong to the same

party. These Ministers could be no more independent than the present ones, for the Governor could always try to replace one or more of them by other Panel-Wallahs. If the prospect of being successfully replaced is an effective hindrance for resigning a Ministership, those resignations will be no more plentiful in the soil manured by the panel than they are in that which is left to the un-hindered culture of the Governor.

The Governor should continue to be vested with the power of choosing his Ministers. He should shoulder the entire responsibility. This will, if anything, lend to consolidate the Council and improve it as a critic of his policies.

(2) "*Chief Ministerships*".—Should the Governor appoint them individually or should he entrust some one man with the task of forming a Cabinet? In my opinion no hard and fast rule could be made, and pious instructions should be avoided. Much will depend on the nature of the Councils. If there are well formed parties they will naturally give rise to the necessary customs and conventions. If there are not, the rule suggested would enable one man to bargain with or boss over others, which is no improvement. Mr. B. Chakravarthy refused to accept office in a miscellaneous Ministry, united by no principle or policy; and if his party had been strong enough that miscellany would have disappeared.

(3) *Sir Patro's proposal.*—In the Reserved Departments the Governor is in ordinary cases bound by a majority vote of the Executive Councillors. Sir Patro wants a similar investiture of power to the Ministers by legal enactment.

I am opposed to this on the following grounds:—

(*i*) It is an absurdity. The Governor appoints the Ministers at his discretion, he can also, according to all Constitutional customs and precedents, dismiss them at pleasure. The Executive Councillors hold by a different tenure. And what is the sense of asking the Governor to be bound by the decisions of Ministers whom he appoints and further more could send to the right about if he is so disposed?

(*ii*) *Executive Councillors and Ministers.*—Responsible Government is in some respects government by indirect and not direct action. Ministers should influence the Governor through their influence on the Councils and finally on the Country. Executive Councillor can't appeal to Council or Country and therefore they must be given power by legal enactment as against the Governor. If the Ministers are equated to the Councillors in this respect, it will intensify the Bureaucratic nature of the Reforms and will not bring us nearer to popular Government.

(*iii*) The Head of the State, the Ministers, the Council and the Electorate are all factors in Responsible Government and it is the Electorate that must be given the most effective, if somewhat remote and ultimate voice. If the Ministers can bind the Governor, how can he dismiss them and appeal to Council or Country? What would become of the Opposition? Suppose there is no possibility of an opposition, would it bring us nearer to Responsible Government or a Native State? A Ministry may be corrupt, may demoralise the

Departments under it and turn itself into an electoral machine, with spoils system and all after the worst Tammany Hall Type. Should the Governor have no remedy ? Must the disease be allowed to spread for three years and become chronic ? (Mr. Kelkar wants 5-year Councils ! Save us from these Ministerocrats).

Even a Council may out-grow its mandate and representative character. It should be open to the Governor to dissolve it too, whatever the Ministers might say, provided always this is not done as a reprisal and in order merely to vex his opponents, and provided also the decision of the Electorate is accepted in letter and spirit. In all these matters legal enactments have to be fortified by conventions based on equities and the higher political obligations. If the Governors and the Bureaucracy won't act with good faith the mere bestowal on Ministers, who are likely to be their creatures, special powers; without increasing the power of the Council over them, will never suffice. Complete Swaraj is the only remedy for such perverse bad faith. If the Ministers feel that they cannot face a general election, it is a confession that they have no moral right to be in office and should retire.

(*iv*) Nor do I approve of giving them the right to record minutes of dissent for the edification of the Viceroy and the mystification of their own Consciences. They are popular Ministers, or are supposed to be; they must either openly express their dissent or swallow it silently and accept responsibility. I cannot approve of a middle course. The Executive Councillor cannot openly attack, his is a service position, not a political office; and so he lets his views known to the Viceroy and not the people. The Minister should either defend the Governor and thus openly accept responsibility; or if he cannot accept responsibility resign and attack.

It seems to me that our Ministers and Ex-Ministers have become so blinded by the glamour of office, that what they want is a more thorough Bureaucratic investiture and not the Democratisation of the system including Ministers. They don't want either a Governor above or an Opposition below. They seem to aim at a permanent settlement of themselves to the detriment of Council and Electorate.

(*iv*) *Ministers and "patronage"*.—Mr. Kelkar's demand that Ministers should have a definite voice in the bestowal of honours and control of appointments and officers is hardly an essential of Responsible Government except in one respect which will be mentioned later on. In Madras the Ministers had considerable powers. I had almost said unlimited powers in the matter of honours and appointments at one time and they used it in the style and manner of Tammany Hall bosses, with the result that their relation to these subjects underwent a drastic revision in the last year of Lord Willingdon's regime and the Governor in Sir Patro's recent phrase "assumed" these powers. He does not say even resumed; he means plainly that they were deprived of their powers by a fresh construction of the Act which he says "is unsound." Why he did not resign and how he could make such a speech while remaining in office and after the change was denied in open Council, are amongst the mysteries of Ministerial ways.

As regards honours even in England they have given rise to serious scandals, and since they are likely to be used or abused for party purposes and even corrupt greed, their centralisation in the hands of the Governor need not be viewed with disfavour. "Jealousy" said Vivekananda "is the special vice of slaves" and honours therefore are eagerly courted by people whose one aim in life is to be above their brothers—whatever that may mean. America has forbidden honours completely; Canada and other Colonies don't permit them to be received freely by their citizens; and there is a movement to ban them altogether. If and when Nationalism is sufficiently strong it ought to make a clear sweep of these baubles, which can only serve to depress national character still further and not elevate it.

Appointments are a more material consideration, but not so material as ministers, whom the wine of unfamiliar power has made a bit giddy, imagine. In England the Government lays down the policy and the Departments administer. The Civil Service is equally Civil and serviceable to all parties. Under a Bureaucracy like that in India it has not been possible to get the two functions kept sufficiently distinct and separate; and if the Bureaucracy claims to affect policy directly or indirectly the Minister has a just cause of grievance. If Government are known to be really sincere about Indian Home-Rule, the revolt of the services will subside either by frank acceptance of the situation or resignation of their posts. The present difficulty is really due to a belief on the part of the services that the path of Reform is retraceable and that the old order of things would be restored if only they make things sufficiently nasty.

The Chief objection to unlimited patronage for ministers is the possibility of the "spoils system" being inaugurated openly and as a matter of legitimate party policy, as was done in Madras, and which was the real cause of the Ministers getting shorn of their powers. Every democracy has to guard itself against this danger and no democracy could be too careful. If the "Spoils system" succeeds in its purpose, apart from corruption and inefficiency, there is the constitutional danger of the people being bribed and seduced into keeping the same party in office always, which would mean the revival of Bureaucracy in a worse and more objectionable form. Administration, as distinct from policy which is a legitimate field of party battle, should be fair to Government and Opposition alike. No Opposition, no Responsible Government. And you cannot weaken an Opposition by illegitimate means without to that extent impairing good Government and responsibility. The charge of officials taking part in elections on behalf of some ministerialists may be recalled here. They were openly made but so far as I know no enquiry was held. The staffs of District and other Local Boards, including the teachers in the schools under them are employed for canvassing votes. Neither the sense of honour on the part of candidates, nor independence on the part of such officials, nor righteous indignation on the part of the voters has risen to the requisite level. District Magistrates have been requested to show more vigilance in preventing and putting down improper practices of this kind. A Superintendent of Police told me that some members of his force helped a Minister, but he came to know of it too late.

If the Opposition should retaliate in coin when it comes into power, chaos would result. The obvious remedy is a proper Public Service Commission; and this is one of the planks in the Opposition platform in Madras. No Minister who understands his duty would care to involve himself too much in administration and patronage. He will have plenty to do as Government if he knows his work.

If—and this is the exception referred to above—a Minister is deprived of the power to dismiss or transfer an agent who is actively hostile to his policy, his position becomes futile and if he has any self-respect he should insist on having his way or resign. The power here claimed is the negative one of removing an officer who is not doing his duty by the Minister. As the American Civil Service Reformers are fond of putting it, responsibility is left to the man who can remove, and not to the authority who appoints. Even if the appointments were vested in a Public Service Commission, if the Minister has the right and power to remove, that will suffice to induce the services to adapt themselves to Ministerial Government, and model their etiquette on the great permanent services of England.

(v) Mr. Kelkar's central theme seems to be "Equate the Ministers to Executive Councillors and all will be well." Perhaps what he means is that that the Executive Councillors should be equated to Ministers. As, however, that is not what he says, we must be content with examining his expressed views. One of the steps in this equation is to require Governors to hold Joint Cabinets of Councillors and Ministers, a plausible, but as we shall show, not an unobjectionable step.

The Fallacy of Joint Cabinets.

These remedies ignore the basic fact that Dyarchy is Dyarchy, and that if you try to convert it into uni-archy it may result in responsibility of Ministers disappearing even more completely than under strict Dyarchy. The very theory that Government is one and indivisible involves the conclusion that it can't be responsible in parts only. Either it is wholly responsible or wholly irresponsible. Under present circumstances uni-archy means complete Bureaucracy which is certainly not what Mr. Kelkar wants.

In Madras, not only Lord Willingdon commenced with Joint Cabinets, but he made it a special boast that perhaps he was the only Governor who inaugurated this liberal measure, and yet, as we have reason to believe, Joint Cabinets ceased to be the rule or custom since the summer of 1923. The experiment, of which Mr. Kelkar is so enamoured, has been tried and found wanting. It has been found wanting both from the point of view of the Executive Councillors and non-officials interested in Responsible Government.

I suppose the trouble began when Ministers began to use their influence in the Reserved Government for self-advertisement and party purposes. Every one knows how the appointment of two Non-Brahmin High Court Judges was widely advertised as a laurel of the "Justica Party." Executive Councillors are

no less human than Ministers and naturally they resented this depreciation of their stock in their own market.

Ministers must build up a party or at least a personal following, if they are to be different from Service appointments, and the Reserved Departments, which have to be above party, cannot therefore permit Ministers to include them in the sphere of their influence without serious detriment to themselves and the spirit of non-party administration they are expected to illustrate. And Dyarchy had to be re-introduced and was.

Uni-archy, Lord Willingdon's passionate adventure, has suffered shipwreck in its own home waters where it was thought that the seas were well charted and navigation quite easy.

Its effects on Responsible Government have been deplorable. The Governor identified himself with his "Happy Family", to a degree that betrayed either ignorance or disregard of the duties imposed on him under a system, however partial, of Responsible Government. He became the patron of the Ministry. On the No-Confidence motion, though by that time Uni-archy was dead as administrative, the Government House battalions—some 35 votes official and nominated, were brought up to support the Ministers, which, I know stampeded some weak men who had promised to support the motion, to bolt at the last moment so as to have the exquisite pleasure of being on the winning side, however it may win. Sir Patro complains of the use to which nominated and official votes are or may be put, or rather of the pressure which the Governor may employ through them on the Ministers; but neither he nor his colleagues had the manliness to declare that they would stand or fall by the verdict of the elected votes, on a motion in which the verdict of the Electorate was laid down as the only constitutional basis for the formation of a Ministry. And in fact though they have been in a minority, as amongst the elected, in several important divisions, including the motion for the rejection of the Hindu Religious Endowments Bill, they have not thought it incumbent on them to resign, or withdraw the measures, but have waited till the 4th August to reveal the Constitutional light that is within them—a belated ineffectual revelation. If their practice had tallied with the Guntur theories, it would have commanded respect. The Ministers have consistently rested on "creature" votes, not having a working majority amongst the elected M.L.Cs. Even the elected votes cast for them, under the spell of Sir Charles Todhunter's "rescue call," represent less than half the votes cast by the Electorate on behalf of the Opposition M.L.Cs. According to the honourable obligations of Responsible Government, the Ministry should have resigned of its own accord or should have been asked to do so. But nothing happened, and the Ministers went on as though they were Executive Councillors. To quote from an old article of mine, "If Uni-archy means practical (Ministerial) irresponsibility, then there is not a man of any vision or wisdom who would not prefer strict Dyarchy to (Conventional) Uni-archy. It should not be forgotten that the Cabinet Declaration of 1917 promised India Responsible Government and that responsibility is the vital principle of the new constitution. If Lord Willingdon has given us Uni-archy with practical irresponsibility, we cannot thank him for that Dead-sea fruit."

When Ministers who have shown utter disregard of their Constitutional obligations to Council and Country plead for more power to themselves as against the Governor and Reserved section, one begins to wonder what it is they are after, Responsible Government or Ministerial irresponsibility.

The immature psychology of the Country, I must admit to a certain extent favours their pretension. Ministers pose as though they are the personification of Council and Country, though they are the appointees of Governor and can't even command a majority of votes in the Council without his favour; and that any support given to them as against Government is a support given to the country against Government. This is to ignore some patent facts—visible to all in Madras. Ministers need not command a majority either of the elected members or the Electorate voting; and unless the predominance of these latter is secured, Ministers can't be regarded as being any different from Bureaucrats and their plea for more power cannot be endorsed.

Betrayal of Responsibility by Ministers.

Without conventions which have to be developed during the course of working a constitution, mere law cannot give us the fulness of constitutional or Responsible Government. In that respect the Ministers have failed to reach to the height of their opportunity. Mr. Kelkar describes the position of the Minister as one of irritation and humiliation, but when asked why he did not resign, he can only reply that he tried to but was persuaded not to insist. You cannot blame the Reforms for this spirit of slavish co-operation. Mr. Chitnavis opined that the official votes should be abolished. Asked by the Maharaja of Burdwan why he did not request the Governor to instruct them not to vote in the divisions relating to Transferred subjects, and whether Ministers had not often sought the help of their votes, he had no satisfactory answer to offer. Mr. Kelkar says that as he had no statutory powers, he felt bound to yield. This is a plea inconsistent with the traditions of Responsible Government, in which Ministers own their power more to their influence with the Council and Country, and not, as Bureaucrats, to legal enactment. And the same applies to nominated votes. If the Ministers had made it clear that their position would depend in fact, whatever be the law, on the general disposition of elected votes, Dyarchy though bad, could not have become the contemptible thing that it is to-day.

Council Procedure and Responsibility.

With a view to strengthen the position of the Council, a suggestion was made that there should be Standing Committees of the M.L.C's. for each Minister or each Portfolio. If this is done, I fear that Ministerial Responsibility will become still more difficult to enforce. The Minister can always take shelter behind the advice given by such committees. It will only serve to create cross divisions in the Councils. Its deliberations being conducted in private, can have very little educative value on the public. If the matters considered there are subjected to a full dress debate in the Council, even economy of time cannot be secured. It is because of the actual difficulties experienced and their adverse effects on the growth of parties that the Opposition Leaders in the Madras Council decided not to accept places in the Advisory Committees

appointed by the Ministers. For one thing they are sure to be packed by their own followers, and the opposition member there would be more like a hostage in an enemy's camp than an equal participant in the consultations. For another thing it is felt that this is a way of disarming the Opposition of some members, one of the arts of legislative seduction.

Standing Committees may be appointed to deal with what may be called administrative details and routine business. Even then their composition should reflect the relative strength of parties in the Council. And they should be elected by the Council by the method of single transferable vote. All questions of great or controversial significance should be submitted by Government, as a resolution or other motion, to the whole Council. Then only could the Council play its proper part as the final judge of policy.

Unfortunately the procedure of our Councils is a cross between Parliament and the old Indian Councils, in which the latter strain predominates. All "resolutions" are to be in the nature of "recommendations" to Government. Government is the supreme deity, and the Council is the temple in which incense is burnt and prayers offered. In the House of Commons resolutions are regarded as what they should be, *viz.*, expressions of the will of the House. So that even Prime Ministers table resolutions in order to obtain endorsement of their policies. Such resolutions of course are not recommendations to themselves. Here, in India, the Bureaucratic God, who has swallowed the Ministerial godlet, works in secret; his will is a mystery; the only embodiment of a kind cognisable by the Council that it obtains is, when appropriations are smuggled in and stowed away amidst a heap of figures in the budget, when there is hardly any time to discover it and less to discuss. Ministers do not submit their "schemes"—there is a lot of scheming in the Ooty Session especially, to judge by the A. P. I. telegrams—either as resolution or by way of special estimates, so as to give the Council an opportunity of pronouncing a considered judgment. They are as anxious to cloud, confuse and nullify responsibility as any Bureaucrat. They call themselves a Party Ministry, yet their procedure is of the Secretariat type:—Committees of officials and non-officials, Conferences of all and Sundry and whatever will contribute to the disappearance of party responsibility and conform to the non-party standards of the Executive Councillors. Surely the Reforms did not preclude parliamentary methods being understood or tried.

Our Select Committees too are wire pulling devices. They do not reflect, as such Committees always do in England, the relative strength of parties in the Council, and their mode of selection is an illustration of how best to get on without being too scrupulous as to the methods to be employed.

The evidence of the Ministers betrays an anxiety to secure what may be called a non-party mode of conducting their work. This will degrade the critical level of the Council, hamper the growth of party and impair responsibility. That the very people who recognise party as essential to responsible Government should suggest these Bureaucratic methods by which "Business" arrangements could be secured and they themselves installed as permanently as the Directors or Managing Agents of a Company is indicative of an imperfect grasp of the implications of ResponsibleGovernment or an unwillingness to apply them.

Position of Councils.

The Reforms are like new wine—Californian not French—put into old bottles. Ministers and *ex*-ministers seem anxious to change the wine only. I am for changing both. Look how the old mentality has persisted into the new era. We still talk of official and non-official as the two poles of our public life, not Government and Opposition. We talk of official time and non-official time, not of Government time, on which the official opposition is universally regarded as having a lien, and private member's time. And ministers are treated as officials and they evidently want to be treated still more as officials. All resolutions should be recommendations to Government; the Council has no right to a will or opinion of its own. Business should be transacted by means of Standing Committees and Select Committees which are not constituted according to Parliamentary custom. Ministers may be humiliated, but as they have no legal power to resist they have reacted by developing an infinite capacity for swallowing humble pies as though two absurdities will make one validity. They want to rest on law, and not the Council, still less the country. There is strict time-limit to speeches; convincing or persuading is the function of the platform; lobbying and voting the essentials of the Council. Political education, another aspect of responsibility, is impossible through the Councils. We want longer Councils; 5 years' term has been proposed. Mr. Kelkar's reason for this is that ministers may learn their work. If Councils in which one-third of the voting strength is at the disposal of Government are thus prolonged to 5 years for the sake of Ministers who evidently confuse administration with Government,—administration had better be left generally speaking to officials—even the little democracy we have will rapidly vanish. Three-year Councils is more in keeping with the spirit of responsible Government.

The *ex*-ministers evidently want Councillor Bureaucracy to be replaced by Ministerial Bureaucracy.

Lastly new rules have been introduced by which the arts of political seduction could be promoted. A rejected budget vote could be re-submitted at any time, and as often as is necessary to get it accepted or swallowed. Needless to add that the new rules have upset one of the most weighty rulings given by Sir P. Rajagopalachariar in 1923. The Councils can be kept in suspended animation, presumably for any length of time, as witness the position in Central Provinces. They have no power of self-convention. They are summoned when there is Government business; adjourned if there is not, they are ntended to be a convenience of Government and not an instrument of popular Government. The Councils like the min sters evidently possess an unlimited right to obey, but none to resist. But fortunately for the country some of them have a higher standard of self-respect and duty.

Position of the Electorate.

If the Councils are thus at a greater discount than ministers in the dyarchical shandy, the poor electorate, the final arbiter of destiny under any responsible Government which s not a fake, has naturally been relegated to a position still less effectual. That which is first in England is very properly

the last in our topsy turvy constitution. A general election may be fought on a Bill passed by a previous Council; and adverse majority may be returned, but the new Council is a continuation of the old one, and it cannot re-consider the whole Bill but only such amendments as may be submitted to it!! The lights of law in Madras have held that the Reformed Councils are of the same nature as the older ones, mere extensions of the principle of additional members of the Governors' Council for making Laws and Regulations! True that the very rules framed under the Act refer to a Council formed after a dissolution and general election, as a "New" Council. But that is just confusion, and not the intention. The Act is framed in a Parliamentary spirit, but the Rules are the dear old rules of the Morley-Minto Councils. This ruling on the Religious Endowments Bill has reduced general elections and the electorate to a meaningless though expensive farce.

My appeal to the Muddiman Committee is, "Save the electorate and the Councils first. The ministers if really popular will be able to save themselves thereafter. If they do not, the Councils will force Nirvana on them."

The establishment of single member constituencies without which party can't be well developed; and the abolition of official and nominated votes; and the abolition of some of the special groups intended to safeguard only economic interests; appear to me as amongst the first needs of the day. Otherwise there can be no healthy growth of party or responsibility but group tactics will be perpetuated to the detriment of honest politics. The Depressed Classes should be allowed to elect their representatives. Nomination is inconsistent with the Reforms and has further failed in its ostensible purpose.

Presidential Rulings.

Presidential rulings have had an important effect on this experiment in responsible Government; and these cannot be ignored in any history of dyarchy in the concrete. Some Presidents have been guided by responsibility as the regulative principle of their rulings. Others seem to have foundered in the Bureaucratic morass.

A question was raised in the Bombay Council whether the office expenditure of non-votable officers should not inferentially be treated as non-votable also. Dyarchical appropriations lend themselves to dead-locks and anarchy. The head is non-votable; but the tail may be cut off; and without an office, the officer becomes an Imperial superfluity. Either both must be votable, or both not. But as this solution is not possible *de-jure* Sir Ibrahim Rahimatoollah rightly held that it should be open to the Council to exercise indirect pressure—the only course possible under Dyarchy—on the non-votabilities by moving reductions in the related votabilities.

Three of Sir P. Rajagopalachari's rulings tend in the same direction of *de-facto* responsibility. The first is his admission of the address of No-Confidence in the ministers. The admission itself was regarded in some quarters as a revolutionary procedure. A point of order was raised that inasmuch as the ministers were appointed by the Governor, no confidence in them was a reflection on the omniscience of the Governor!! This objection was taken not

only in the preliminary stages but in the replies of the ministers. Not only did the President rule it out, but he did it in a statement, not lacking in argument or spice.

The Hon'ble the Law Member, evidently in pursuance of the policy of depriving the ministers of their powers in the matter of appointments, which they had as a matter of fact enjoyed for over 2½ years, argued that the Council could not discuss appointments even in the Transferred Departments as they were made by the Governor, the Ministers being merely his advisers. The present writer at once joined issue and the entire opposition joined him in defence of ministerial rights, while the Ministerialists sat as silent spectators. In view of the importance of the question, the President took time to consider and gave a ruling two days after, a master-piece of sound constitutionalism. Government however were not to be baulked of their prey. What they failed to get under a Presidential ruling, they secured by what Sir Patro, whose chief had again and again denied that there was any change in this respect either in theory or practice, naively referred to " as an amendment in the Rules of Business " (of the Cabinet) " recently " made, and which he further characterised as " unsound ", but not evidently for that reason unswallowable.

And the third memorable ruling of the most auspicious presidential regime in India has already been alluded to. Certain budget items were voted out by the Council in March 1923; and Government wanted to re-introduce some five of them in the supplemental demands usually made towards the end of the budget session. I happen to know something of the consultations that took place. In spite of much solicitation on the part of Government, he ruled them out of order.

The Rulings of Sir P. Rajagopalachari may with advantage be consulted by the Muddiman Committee. They are the pronouncements of a singularly powerful and lucid mind and contain matter that ought to be incorporated as laws or honoured as maxims of the constitution.

Dyarchy and Votes of Censure.

He was the Chairman of a Committee appointed to suggest improvements in Council procedure, of which I happened to be a member. The question arose as to whether votes of censure, moved officially by the opposition, should not be given special priority, as is the case in the House of Commons. Neither he nor the Leader of the House who was present nor any member of the Committee disputed the admissibility of such notions, which are an essential and usual method of enforcing responsibility. The only question was as to priority. It was held that in such a case it would be to the interest of the ministry and Government themselves to provide early opportunity for its disposal; and such being the case there was no need to make any provision. The Hon'ble President should exercise his discretion and prevent vexatious motions of censure being moved. But if he is satisfied with the *bonâ fides* of the motion, and admitted it, Government would of course find the time; which indeed is the correct line of action and one invariably taken in all countries with responsible constitutions. (The procedure in France is different and still less mindful of ministerial security and comfort, but this is not an essay in comparative constitutional law and custom.)

I am afraid that his optimism has not yet found realisation.

The present President has given some rulings to which, I cannot fully refer, as some of them are still under correspondence. I hope to supplement this Review at a very early date by a note on the action of the Governors and Presidential rulings in their bearing on the scope and power of the Councils. Meanwhile I may just allude to the issues :—

(1) I tabled a motion recommending the removal of electoral disqualifications on political prisoners not guilty of violence to person or property. It was disallowed as not being primarily a matter of local concern. My appeal based on the two grounds that such a motion was admitted in Bengal, and that there are *ex*-political prisoners of this type in this Presidency, is, I believe, still under consideration.

Much depends on this definition of " Local Concern " and on one's general attitude to the subject of autonomy in relation to Delhi. I am satisfied that the general tendency in Madras is towards freedom from the control of Delhi, subject to certain restrictions relative to genuinely national affairs.

(2) Mr. Marudavanam Pillai gave notice of a motion expressing the Council's disapproval of the action of Government in getting the Kannambady agreement ratified without allowing the ryots affected a chance of seeing the terms of the agreement and making representations. It was disallowed on the ground that no recommendation could be made to Government to censure itself !! All the premises of this grand constitutional syllogism were not stated : but they appear to be as follows :—

No motion which is not a recommendation to Government should be made.

A vote of censure cannot be a recommendation.

∴ No vote of censure can be moved. Ergo :—Full responsibility has been secured, as administration is bound to be carried on by uncensured and uncensurable people !! Or, Ergo knowest thou not that this is irresponsible Government ?.

Personally I feel that this decision of the President is right. For the motion refers to the reserved section, to which by Statute responsibility does not attach.

(3) In connection with a vote of censure on the Hon'ble Minister for Local Self-Government tabled by Mr. Sami Venkatachalam Chetty on behalf of the Opposition, it was, as far as I could understand the wording, ruled that such motions could not be given priority, but should take their chance in the ballot. Responsibility relegated to lottery !!

(4) However more recently when I pointed out that according to the procedure of the House of Commons, the official Opposition is treated differently from private members (here they are lumped together as non-officials) and motions of censure tabled by it are given special time, the Hon'ble President

was good enough to say that if Government would give the time he would not object and that I should try to arrange with the Leader of the House. In England most of the time is taken up by Government, and very properly too, since under responsible Government, normally speaking, Parliament express itself indirectly through Government (and not by such resolutions and Bills as are moved here, — vestiges of the olden days of prayers to the Bureaucracy). The Opposition criticises and censures, rarely even makes itself responsible for Bills, etc., for it is a minority and those functions more properly belong to the majority. In order to enable it to discharge its functions properly the tradition has been established of accepting its challenges readily and answering its criticisms and thus shouldering responsibility. If it is the duty of the Council to enforce responsibility it is equally the duty of the Ministers to shoulder it and not evade. The Hon'ble President's suggestion is in accordance with the practice of the House of Commons. It remains to be seen if the Leaders and Ministers will fashion their replies (the query has not been raised yet, as the particular motion concerned has secured a good place in the ballot) on the Parliamentary or Bureaucratic model.

(5) In connection with the Opposition resolution on the Lee Commission's proposals, a clause was added to the effect that the Council disapproved certain statements made by Sir A. P. Patro on that subject at Trichinopoly. While the resolution was admitted the portion dealing with Sir A. P. Patro's defence was required to be deleted as not raising a definite issue.

Is not the conduct of a Minister with reference to a particular question a definite issue and cannot the Council pronounce its opinion upon it? Surely the Madras Government has sent its report on the Lee Recommendations; and the Minister must have taken an attitude in consonance with his public utterances, even though he said he was speaking for himself and not his party. Did he sign the Madras Government's report too for himself? And if such motions are ruled out, how is responsibility to be enforced?

(6) I tabled a motion expressing disapproval of the conduct of the Minister in nominating presidents of District Boards in violation of a recent resolution of the Council which was accepted by Government. That motion was disallowed as it was not a recommendation. On which I raised the question whether no motions of censure could be moved even in the Transferred sphere. As soon as a reply has been received, it will be communicated to the press.

It will now be seen why it is that no Constitutionalist could treat the problem of Reforms as having only two coefficients—the Governor and the Ministers. The position of the Council, including fair play to the Opposition, the formation of parties based, as Sir Patro advises (has it any application to himself) on "political principles", Council procedure, the place of the electorate, etc., must all be reviewed and settled together in the light of a really honest endeavour at responsible Government. It is not only Dyarchy that must go, but Ministerial Bureaucracy as well.

Subject to the dissents here indicated I am in general agreement with the evidence so far given (evidence of Messrs. Chitnavis and Kelkar) I most emphatically endorse the opinion that mere transfer of subjects — not even the

transfer of all the subjects — will remove the cause of popular discontent. It is not a change in the agents that is wanted but a change in the system. There must be a change in the nature and quality of Government; and responsibility must be made clear and enforcible, which is not the case at present.

I deprecate all pleas for the special treatment of provinces on the score of their having co-operated well or ill. These exhibitions of competitive loyalism are nauceating to a degree. India stands or falls together as a whole.

C. R. REDDY.

Memorandum by M. R. Rt. Rao Bahadur M. C. Rajah, Honorary Secretary, Madras Adidravida Mahajana Sabha.

In reviewing the report of the Royal Commission on the superior service must be borne in mind the very strict limitation under which they had to work. They were not asked to consider whether or not India was fit for self-Government; but to seek the means of carrying out the promise of 1917 at the earliest possible date. It is a matter for congratulation for the Englishmen that they threw themselves into the cause most heartily, shutting their ears to the reverberations of their own past experience and of the accumulated experience of hundreds of wise men who went before them. It is the fashion, to say, of a man, who is not an enthusiastic believer in our immediate fitness for self-Government, that he is a diehard ; such a thing is easily said and passed on from lip to lip, while it by no means carries them one step nearer so far fitness for self-Government is concerned. It is now said, we are all now competent to rule ourselves, and the presence of Englishmen is not necessary, and only impedes our march onward. And it is proposed to make up for this piece of gross injustice, Indianisation of the different services must be commenced and completed as soon as possible. I say " woe to India when such a wish is achieved. "

Dyarchy they say has proved a failure because of the inherent drawbacks arising from the nature of such a situation. Others say it has proved a glorious success viewing it from whatever standpoint ; whether as a success or a failure they agree in asserting that instead of Dyarchy they must have local self-Government. And, that, they say, is the panacea that will cure all the evils under which we are suffering now. To us it appears, even Dyarchy is a blessing, because, though some of the subjects have been transferred entirely to the hands of the Indians, the momentum of the administration of the rest has carried these forward. Now, this is a fact that is seldom understood ; the men in charge of transferred subjects take credit to themselves for administering them successfully. It is easy to delude oneself like it, because one is always happy to think that one is a genius ; so one feels, when he is suddenly lifted up from—where shall we say, will the ministers, at least the ministers of Madras know it themselves —to the place of ministers, that there must have been marvellous ability buried deep down in their natures to be suddenly called to life upon their elevation to the ministership to dazzle themselves and the world. But we do hope it has not so blinded them as to think themselves transformed into Gods. If that be so we will not disturb them in their Elysium. Like the fly seated on a spoke of the wheel, their loud cries of successfully driving the machine will impose on none but themselves, their wives and their own children. All this does not look very hopeful to the Indian who seeks self-Government. If we were going to indulge in rhetoric nothing would be more easy than to shout from every house-top, how the Englishmen came to India, filched our country from us, denationalised us, enervated us, demoralised us and finally rendered us unfit for even ruling ourselves : the cry would be taken up by every idler and mischief-monger, and then it spreads like wild fire among the mob ; the inevitable consequences of which are events like the Punjab rebellion, the Moplah rebellion, the boycott of H. R. H. the Prince of Wales, etc. And then, and only then it is interesting to see

how these so-called Indian leaders of thought, leaders of parties, leaders of movements would behave. The conflagration is easy to light up ; but once it is ablaze it is not so easy to quench it. This our leaders see too late. All this I say, not to belittle, my countrymen ; but to face the facts and deal with *them* rather than with philosophic disquisition and visionary utopias.

Let us take, to begin with, the case of the I.C.S. The man who comes out from England has generally been through one of the two famous Universities of England, Oxford and Cambridge. Let us look at the training that such a person receives. He generally goes through one of those remarkable Public schools of England and by the time he leaves it, he is about 16. And what is the kind of product that these Public schools turn out most of my English friends would not require an answer to this question ; but several of my countrymen would be glad to know something about it Well, to put the matter in a nutshell, they come out with their character fully formed and thoroughly equipped with the necessary material to enable them to fight life's battles with courage tempered by sympathy, justice by mercy, energy by patience ; all this is inspired by a very high sense of duty ; high sense of their calling, and a high sense of responsibility. Into the youngsters mind they are very careful to instil courage, courage not of the barbarian variety, but courage always guided by intelligent and cool unruffled thinking. Secondly an absolute dependence on self in the last resource with a readiness to take counsel from anybody if proper and necessary : a mind that will work energetically and actively during emergencies. A sense of organisation, *i.e.*, the habit of quickly organising themselves into an orderly party, cheerfully submitting themselves to irksome discipline and obeying the selected chief to the death irrespective of his social rank ; a sense of law, a sense of honour, a sense of justice. Now, this is the equipment with which a public school boy leaves his school. He enters the University, there he specialises in some branch of study. During the time that he is there, he is no more a youngster ; he is a man who has already begun to do the work he is expected to do in the world to some extent, while at the same time he is equipping himself with knowledge of an advanced nature in some special branch. There the students behave to each other as though they were already men : discuss the great problems of the world with the same serious interest that is seen in them when they begin the work of life proper after they leave the University. To their Union meetings come the great men of parliament and join with the students in the discussion of the problems of the day. To them come the great men of letters, leaders of thought, scientists and men who excel in every branch of literature, to pour their treasures at the feet of the *alma mater*. It is in the midst of such surroundings that these students are nurtured, it is in such an atmosphere that these students breathe, move and have their training. Fed upon such thoughts, nurtured in such traditions, equipped with such knowledge they come out here, to serve us in the Civil Service, Education and other services. And we say, why should they come ; are we not as good as they ; how are they better than we ? Will my countrymen honestly look at themselves for a minute and then say that they are as good as those ? If they do, I am sure there is no salvation to them. A man who honestly believes his is a case that calls for improvement and sets about it, has a chance of improving, however dull he may be ; but one who mistakes his dullness for intelligence, and fully believes it, has not got a ghost of a chance to improve, and must grow from bad to worse, with the only parrot cry left to him " Oh, I am as good as anybody else " till at

last he becomes a laughing stock to the world. In the picture that I have given above of the Englishmen do my countrymen recognise any feature familiar to them ? No, they can't, but they would see much that they can understand in the negative side of this picture ; nor need they be ashamed of it. The traditions in which we have been brought for ages, the training we have received, these go a long way in making us what we are. We have to break through these traditions, we have to receive the training our rulers receive in their country before we can say we are fit for self-Government. We may cry as long as we please, we may shout as high as we like " oh, are we not fit for self-Government ". It is earnest work, it is earnest preparation that will get us. All this has been forgotten ; instead of directing their attention to the education of the people, education that will give us men of the kind that Oxford and Cambridge send down to us, we are vainly crying for the man in the moon. It is a matter of surprise that the committee instead of devoting their attention to these important points has recommended the immediate Indianisation of the several services. I cannot for a moment believe, that the British have become so dead to their sense of responsibility as to allow a predominating Indian element into the administration and vitiate and weaken its character. Until and unless we have schools similar to the Public Schools of England and Universities like those of Oxford and Cambridge, we ought to keep down the Indian elements and prevent it from contaminating the administration.

A two or three years training in Oxford or Cambridge to an Indian student does not by any means leave such a strong impress on his character as to make up for all the deficiencies arising from a lack of training in one of those Public schools of England. Beyond the habit he acquires of wearing a hat and a boot, and an affectation in the manner of his speech, and the airs he gives himself as though he has been transformed into a supreme being by crossing the sea and stopping within the walls of a college hammering away at his studies, we see nothing in him that calls for praise, though there is much that causes aversion. Above all, to send out a man to Europe for a matter of seven or eight months, at the expense of the people, pretending that he is going to master all the various systems of education ; while as a matter of fact, it is only a fraud practised upon the people, to prevent them from seeing the truth, *viz.*, a desire to promote a man, recommended by men in high places : to provide them with a plausible excuse for the step that they have contemplated to take, is a thing that cannot be sufficiently condemned.

I. It is proposed that out of the 60 per cent. of Indians in the I.C.S. Service, 20 per cent are to be lifted up from the lower ranks. A more serious blunder cannot be made. A man who has been used to stooping all his life before his immediate superior, and tyrannizing over his immediate inferiors renders himself utterly incompetent to rise into the higher service. Habits of mind and character that reliance on self, that habit of turning to one's own mind and conscience in times of exigencies, that power of rapidly summoning one's own thoughts so as to be able to arrive at a quick decision when time presses these qualities that characterize an Englishman, and render him eminently fit for any service, are just as things, the lack of which renders us eminently unfit for any service, except as subordinates under them, to carry out orders issued by them, and leaving the whole responsibility in their hands. When such is the case with the majority of our countrymen, with what stronger force does it apply to those men, who starting in the subordinate service, having been bending their backs so much,

that after 15 or 20 years they find it difficult even to stand erect. It would be a sin to life such a man into the higher service and expect that he would do justice to the position he holds. That man if he be really honest would rather shun the job, than take on himself a responsibility, for which at the bottom of his heart he feels he is unequal.

II. *Indian Police Service.*—All that I have said about the I.C.S. apply with equal force to the Police service. That is a department that calls for the exercise of qualities that are entirely absent in the majority of Indians. From the bottom to the top, that portion that is manned by the Indian has always been condemned. The report says that at present the best type of Indian is not being obtained. This is not so, the type of man that is required for this service, you don't find in India. Such a type has yet to be created. Education and training alone will bring such a man into being. Meanwhile you have to make the best of the stuff you find. And instead of rushing to equalize the proportion, an effort ought to be made to choose the best men, give them the best training, and in course of time create a tradition, which in its turn will re-act upon the members of the corps, and exercise a powerful influence in keeping them honest, vigilant, active and endowing them with a sense of responsibility, which, while not courting danger will not shirk it, when necessity arises. It is best to leave the service as it is at present, and not meddle with it in the manner proposed so as to bring ruin and disaster upon the country.

III. *The Indian Forest Service.*—As it seems to be agreed that the instruction and training available at the Forest Research Institute and College at Dehra Dun, will not be inferior to that obtainable in other parts of the world, recruitment may be at a higher rate than at present, but the proposed rate of 75 per cent. is simply preposterous.

IV. *Indian Service of Engineers.*—Sub-division no. 1. As suggested the matter may be left entirely in the hands of the local Government. But it must be distinctly understood that the thing will prove calamitous if left in the hands of the Indian Ministers. The principle that guides them is caste, and not ability nor efficiency. So long as this is so, how can it be left in the hands of the Indian Ministers, nor can we expect anything better so long as Ministers continue to be appointed as at present. How can you expect absolute incompetence and inefficiency to exercise intelligence, and make a good choice of able and honest men for different services. An ass is but an ass, though he might be clad in a lion's skin, and the moment he opens his mouth to utter his oracular opinions, the note, the distinctive note, of the bray, in spite of all his attempts to conceal it, shows itself unmistakably.

With regard to no. 2, I would suggest 60 per cent. of European as against 40 per cent. Indians, of which five might be raised from the lower ranks.

With regard to no. 3, I would suggest that any Indian recruited in England must be outside 50 per cent. which must be reserved entirely to Europeans.

V. *The Indian Agricultural and Veterinary Services* might be kept to the local Government. Although we do hope the Ministers will not stand in the way of recruiting first class men from England, in preference to mediocres, who happen to belong to their own caste, or to be their own relation.

With regard to *the Educational Service* the less of Indians put in these the better. It is a mockery of mockeries to ask an Indian to lecture on English literature. The wonder to me is, how the absurdity of it does not appear either to the Indian or to the Englishman. And in formulating educational policies the last person you can trust is the Indian. It may be recalled that while dealing with the I. C. S., I said that until and unless an educational policy is laid out, that will render it possible for schools of the type of the Public Schools of England, the Indian element should be kept down. Now, of all services, the educational service is the most important. Because upon it depends the whole future of the country. If India really wants self-Government if she means it in dead earnest, the best thing for her to do would be, to stand aside and allow the Englishman to chalk out the course unfettered, and let him guide us to the intended goal. Moreover the education of the Depressed classes would suffer seriously. Indians that get into the Educational Service, will either be Brahmins or Non-Brahmin caste Hindus, who would look after the interests of their particular communities and either neglect us (the Depressed classes) or train us in such a way to look upon them for ever as our Masters. Again with regard to Medical Service I agree with the suggestions of the Commission.

VI. *Central Services.*—

(a) *Political department.*—There ought to be no recruitment to this department from the Provincial Civil Services.

(b) *Imperial Customs Service.*—I would suggest only one alteration. Instead of not less than half the vacancies, I would say, not more than half the vacancies are to be filled by appointment in India.

(c) *Superior Wireless and Telegraph branch.*—I would suggest recruitment of 50 per cent. in England, and the balance in India. Since this is the service that is likely to be of the greatest military value in times of war, it is best that 50 per cent. of Englishmen are retained, while the balance might be Indians. Perhaps it may be objected that the Indian would be just as efficient, trustworthy, and otherwise competent at such times. But I leave it to my own countrymen to judge and decide honestly whether they would act and conduct themselves, like the Englishmen. Or whether it is not best, all things considered, to have the Englishmen by the side to lean on in times of emergencies and trouble. What the Indian lacks is a stiff backbone, and without it, he stoops and bends constantly. No doubt he develops a supple back, and this stands him in very good stead in subordinate positions. But when you ask him to assume a position of great responsibility, his incompetency begins to show itself. And then it is that people see the ass under the lion's skin.

(d) *State Railway Engineers.*—From a military point of view this service is just as important as, if not more important than, the other services and hence it is extremely necessary that the percentage of Indian element be kept down and the British element be made to predominate to as great an extent as possible. Perhaps it may be asked why it should be so. The answer is not far to seek. It can be easily judged how our great Indian engineering friends behave in times of flood, or, when a bridge is washed away.

I have all this time spoken of the incompetency of my countrymen rising from their inherent weakness of character, and then want of proper ducation and training. There is another important feature to which I ave not adverted till now : because I have reserved it for special mention, ince it is of the highest importance. As long as there is such a section s the Depressed classes in existence, it would be committing the most gregious of blunders, either to think of Indianising the Government, or of ven admitting a larger proportion of Indians into the Government. The ery fact of its existence is an unquestionable indication, of the depth of arbarism to which the Indian has sunk, and the enormous resistance that ny attempt at their amelioration meets with, is a further sign of how tterly incompetent they are for ever an approach towards self-Govern-ment. No doubt, the caste Hindus to subserve their own selfish interests vill hold out large promises to the ear, only to break them the moment their nds are accomplished. Before the reforms were introduced the Depressed lasses were begged by the Non-Brahmin caste Hindus to throw in their ot with them, that together they might fight the Brahmin successfully, and hen he has been crushed they might share the spoils together. The most nfair tactics were employed by the caste Hindus. The falsest and barest f imputations were made against the Brahmin and by merely shouting loud, and in very large numbers they successfully imposed on the British ublic, who fell an easy prey to the wily caste Hindus. And after having von all their points and crushed the Brahmin they turned their atten-ion to the Depressed classes. 99 per cent. of the Depressed classes are griculturists and manage to eke out a living upon very precarious terms rom the land. And 99.9 of the men who own these lands are the caste Hindus, and the way they treat the depressed classes eludes all attempts t description. A sword is hanging over their heads all the time suspended y a hair, and the men are living in a state of deep anxiety all the time to he end of their lives. This is perpetuated from generation to generation. This has been going on from time immemorial and is going on still. At a moment, if the landlord wills it, he can serve a notice of ejectment on all hese men, and they have nothing for it but to obey. And such oppor-unities often arise. These men from the ideas they entertain of their own lescent and of their own consequence, regard themselves as so many celestial eings, whom even to approach within a distance of ten yards, is looked n as a serious offence by them, for which they inflict condign punishment. Soon after the non-Brahmin caste Hindus came into power, in September 921, Sir P. Theagaraya Chetty the redoubtable knight of Tondiarpet and he head of the non-Brahmin caste Hindu party in the Council wrote a nost unwise letter to Government taking the side of caste Hindu labourers gainst the Adidravida labourers and made most un-warrantable state-nents ill founded on facts and suggested to Government to deport Adi-lravida labourers out of Madras. To such ravenous and blood thirsty volves and vultures the poor depressed classes men would be handed ver in any system of Government, where the services would be largely ndianised. I cannot imagine that the British Government (though at resent the Labour Party rules) have become so lost to a sense of moral esponsibility, which is their best if not their only title to their presence in ndia. It is that that makes them afford special protection to the members f the depressed classes against the cruel and relentless persecution of the aste Hindus. Long before the Reforms were even dreamt of, a depart-ient had been created whose sole duty it was to ameliorate the conditions

of the depressed classes, and, in general to look after their interests. The caste Hindus, as soon as they came to power, as a result of the reforms, or perhaps as a result of the particular manoeuvre of Lord Willingdon (for it is impossible to believe that the measure contemplated the remaining in power of the caste Hindus to all perpetuity, still less that two or three nonentities would hold power and draw the emoluments of office for two successive ministries in spite of the tremendous amount of opposition from among their own people which among others contains few inferior or to them, either in ability, honesty, or character) set themselves to destroy this department, and to a considerable extent they were successful. And I understand that an attempt is now being made to bring even the remnant under the power of the Indian Ministers. This must be resisted, and battled with and baffled. The special department must be reinforced and kept entirely in the hands of Englishmen, and the Indian ought not to be allowed to exercise even a grain of influence or power in that department. More powers must be given to this department, so as to admit of papers being disposed of quickly without reference to this or of that department, which generally entails interminable delays caused in some cases by negligence, in others by ingrained, unconquerable prejudice, and spite towards the depressed classes. Over and above everything else 15 per cent. of all the superior service must be reserved to the members of the depressed classes while a similar percentage must also be reserved in the Provincial and Subordinate Services. My evidence will prejudice my personal relations with my countrymen, besides increasing the obstacles already insurmountable in the way of the progress of my community. The caste Hindus will now offer determined and organised resistance to any efforts that might be made towards softening the hardships and cruelties to which the members of my community are subjected. In spite of this hazardous contingency I feel I am morally bound to speak the truth irrespective of whatever injurious consequences which may entail upon my community.

Memorandum of the 1921 Club, Madras.

LETTER FROM THE SECRETARY, THE 1921 CLUB, TO THE SECRETARY, REFORMS ENQUIRY COMMITTEE, SIMLA, DATED MADRAS, THE 11TH AUGUST 1924.

Enclosed is a Memorandum for the Reforms Enquiry Committee sent by the Political Section of the 1921 Club. If the Committee wishes any points raised in the Memorandum to be elucidated by oral examination of witnesses, the Political Section will arrange to send representatives for the purpose.

Memorandum on the Reforms Enquiry.

The terms of reference of the Reforms Enquiry Committee require it (1) to investigate the difficulties and defects in the working of the Government of India Act experienced during the past three years and a half, (2) to consider whether it is feasible and desirable to apply such remedies, consistent with the structure, policy and purpose of the Act, as can be secured without an amendment of the Act, and (3) to suggest amendments of the Act to remove purely administrative imperfections. The terms do not define what kinds of difficulties and defects the Committee should explore. There are difficulties in the way of the Government discharging its responsibilities, and what would appear to it as defects in the Act which give rise to those difficulties or impede its handling of them. Similarly Ministers have difficulties which seriously hamper the discharge of their responsibilities to the Legislative Council and their constituencies. Again there are defects in the Act which severely restrict the Legislatures in their task of passing such legislation as the constituencies desire, of securing such financial dispositions, as regards expenditure, as in their view will further the interests of the country, of controlling taxation in accordance with the views of the people whom they represent, and of influencing the course of the administration so as to make it serve the requirements of the people and obtain their support. Lastly, the electors have their difficulties. It is not the aim of this memorandum to concern itself to any extent with the difficulties experienced by the Governor-General in Council or of the Governor in Council. We shall refer to them only to reinforce the conclusion that we have arrived at, that there is no half-way house between a system of autocratic Government and one of responsibility to the people, which will be efficient and satisfactory either to the Government or to the people. The ministers, present and past, will throw light in detail upon the difficulties of their position, and we shall refer only to such of the circumstances as are apparent to outside view and are seen to prevent them from making themselves fully responsible to the Legislatures which they are supposed to lead. Our object in this Memorandum is mainly to show how unsatisfactory the present Constitution is from the point of view of the people, the electors, and the Legislatures which represent them, and that no remedy short of wholly elected Councils with Executives responsible to them will meet their requirements. We shall also show that the difficulties arise because of defects in the structure of the Act, and thus prove that, highly desirable and necessary as it is to remove them, they will not disappear except with a radical modification of the structure itself. The policy of the Act we shall not concern

ourselves with to any extent, as we hold that in the form laid down in the preamble of the Act it is highly derogatory to the dignity and inherent rights of the Indian Nation, which has as a matter of fact refused to accept it. India claims the right of Self-Determination and Self-Government conceded even to the small Nations of Europe and America for whom the War was fought. She cannot submit to her progress being regulated by the British people sitting in judgment upon her fitness for liberty. As regards the purpose of the Act, we take it that it is to establish Responsible Government, and we shall indicate the reasons which to our mind operate to make the present constitution not a fit soil for the growth of a spirit of responsibility without which a system of Responsible Government will not be a success, so far as the good of the people is concerned.

Taking the Central Government first, the constitution of which forms the crux of the whole political problem in the country, its chief defect is the retention of an Executive which is not responsible to the Legislative Assembly. The Assembly has a non-official majority, and it represents an electorate which so far as the questions coming up before the Assembly are concerned, is representative of the people at large, and has hitherto received their support. The Executive Government is, however, responsible to the Secretary of State and has to take its orders from him. This functionary is a man who lives 6,000 miles away, and often one who is entirely ignorant of India and uninterested in her affairs, and is brought into the office, through the exigencies of the political and party situations in England. He is influenced by the wishes of his party supporters and of electors in British constituencies who do not look upon India as a trust, but as a field for exploitation, as the history of the cotton Excise question very well illustrates. He is advised by a number of retired Civilians, wholly out of touch with the present day Indian sentiment and conditions, who have become more or less incapable of receiving fresh ideas, or of adapting themselves to any other system of Government than the one which they administered in their day to their own complete satisfaction. Naturally, therefore, the orders which the Government of India receives from him are not such as to be acceptable to the people whom the Legislative Assembly represents. According to the provisions of the Act, unless the matter relates to Defence, Foreign and Political Relations, the Ecclesiastical department or Consolidated obligatory charges, if it requires appropriation of money, it has to be placed before the Assembly. Thus a demand for the grant of a sum of money to defray the expenses of the Royal Commission on public services had to be made in the Assembly, and it was turned down by the latter. Although the Government of India, being more in touch with Indian sentiment and responsible for the handling of situations arising in this Country, is believed to have opposed the appointment of the Commission in its despatches, it had to restore the grant refused by the Assembly, and thus come into conflict with that body, exacerbating the popular feeling against it. Any matter requiring legislation has also to pass through the mill of the Legislature, and although the Governor-General has been given power to certify a Bill and thus pass it into law, over-riding the judgment of the Assembly, the exercise of it necessarily brings the Government into sharp conflict with that body. Twice during the period that the first Reformed Legislature was in existence, has this power been used, once in connection with a Bill to penalise sedition against Indian

princes, and last year to pass a finance Bill which included a provision to double the existing Salt Tax, which was obnoxious to the Assembly and to which it firmly declined to assent. If the matter does not necessitate either appropriation of funds or legislation, then it can ordinarily be carried out by the Government without reference to the Legislature. The latter can only criticise the Government's action, and bring it prominently to public notice, which it does by means of interpellations, resolutions, and sometimes discussion on motions of adjournment. But whatever the course of the action which has to be taken, the Secretary of State's view, even after it is modified, if at all, by representations by the Government of India, is generally very different from, and often in direct opposition to, the view of the popular representatives. Such conflict, whenever it occurs, has wide repercussions all over the country, aggravates its political condition, and is not without effect on the problem of preserving law and order. Frequent conflicts divert people's attention and energy, and also the Government's from important matters of development and social reconstruction, awaiting their attention and co-operation, and so the country suffers. The issues raised in such conflicts not infrequently assume a racial character, and thus tend to worsen the relations between Great Britain and India, on the continued maintenance of which on a basis of goodwill and mutual support the future of the Empire so largely depends. In the interests of harmony between them and India's internal progress, and in order to prevent desperate counsel from gaining ground, leading to direct action and anarchical conspiracy, steps should be taken to ensure constitutionally that the will of the Executive shall be identical with the will of the Legislature and that of the peoples.

The Government of India Act has failed to win the co-operation of all classes of the people, as was expected, not only because of causes engendered previous to its coming into existence, but also because the nature of the constitution embodied in it was such as to make conflicts between the Executive and the Legislature inevitable to some extent, and in such conflicts the will of the former prevails at least for the time being, enabling non-co-operation propagandists to declare with much plausibility that autocracy is still supreme, and that the circumstance of its being veiled under a democratic garb is only intended to prevent people from claiming and obtaining their own. It is only the more thoughtful who have perceived in the Reforms a valuable instrument with which to win the Nation's freedom by constitutional means. If British policy is to regulate India's Constitutional progress by the measure of co-operation received in the working of an Act which does not attract co-operation, then the aim of that policy will never be attained.

One great defect in the present Constitution is that it is not felt to penalise non-co-operation except to some extent in the transferred departments in the Provinces. The electors are taught to entertain the belief that the Government being all in all, their co-operation is only a luxury which it seeks, their non-co-operation a harmless demonstration which will not redound to the detriment of their interests. In the Central Provinces where the representatives of the electors have practised thorough-going obstruction in the Council, all development in the transferred departments has been suspended. The effect of this would naturally be, and presumably to some extent has been, to

teach the people that a system of responsible Government is not one to be trifled with. But it has been very considerably nullified by two provisions in the Act, empowering the Governor to "authorise" the necessary expenditure to carry on the departments, maintaining the *status quo*, and the other enabling the resumption of control of the Ministerial departments by the Governor in Council. On such resumption the Governor would be able to provide for them all the funds now withheld. Hence the remedy for the present state of affairs lies, it is said, with the Governor who does not want to abrogate the Reforms, because that is the course to which the Swarajists wish to drive him, and he wishes to punish the electors, by suspending development, for their election of non-co-operators to the Legislative Council. If the two provisions referred to had not existed, then the responsibility of the electors for the administration of the transferred departments would have been complete and final, and they could fail to shoulder it only at their cost. If the Act does not effectively enforce their responsibility for transferred subjects, it does not even make a pretence to do so in the case of others, whether the reserved in the Provinces or the Central. Hence it fails to win their co operation as, shall we say, Nature's laws win the co-operation of men. Hers are not disregarded with impunity; they are conquered by compliance.

That takes us on to the point whether there is not the supreme defect in the Act which makes the Constitution brought into existence by it not a fit soil for the growth of a spirit of responsibility. We have already referred to the test case of the electors in the Central Provinces who, according to all evidence that has been forthcoming so far, have remained untaught by the consequences of their folly in electing a set of wreckers, who have indiscriminately turned down every proposal, good or bad, brought forward by the Government. If the electors in other Provinces have displayed greater discernment, it is not because of any special sense cultivated in them by the obligations laid by the Act, but because of their own inherent good sense. The constitution can work largely irrespectively of their votes, and this fact has necessarily a profound effect on their attitude towards it. The British Parliament, or rather the framers of the Act, calculated on a desire on the part of the Indian electorate to acquit itself creditably in the eyes of its British Judges (so as to earn the reward of increased powers in due course of time), as providing the necessary stimulus and corrective to its actions. But this stimulus has not existed, and will never come to exist. Those who think otherwise show themselves unable to comprehend the psychology of the proud Indian Nation, or indeed of any self-respecting Nation. The way in which the electors have been educated in the West is by conferment of responsibilities. The fate of issues vitally affecting the welfare of the Nation depended upon them. Parties with particular solutions canvassing support made the constituencies hum with their activities and turned them into hotbeds of political culture. Always the franchise came first, and political education in its wake, and under its stimulus. In India the electors do not feel that the burden of decision rests upon them, that the future of the country will be made or marred by the choices which they make or refrain from making. It is idle to expect that in such a constitutional vacuum the plant of responsibility will grow quickly if at all. It is only when the Constitution makes the electors feel that they form an indispensable part of the machinery on the operation of which, determinable by them

causes will be set going the effects of which will be brought home to them, that they will begin intelligently to co-operate in the working of the scheme.

The popular representatives in the Legislative Assembly understand to some extent that their speeches and votes have an influence on the policy of the Government but in no vital way except to the extent that the latter deems it expedient, in view of the strength of sentiment in the country, to modify its course in particular matters. They vote and speak, naturally with little appreciation of the practical difficulties of the administration, but also without the restraint engendered by the knowledge, possessed by the party of opposition in Parliaments in the West, that if the Government resigns, it will have to shoulder the responsibility of forming one and administering the policies which it has been advocating. Without this salutary check in the Indian Constitution, criticism naturally tends to be destructive instead of constructive. Destructive critics tend to band themselves together into a permanent opposition against the irremovable Government, all the more readily as they are divided from it on the fundamental question of Swaraj; and the Government is left with little support outside the ranks of its "creatures", the nominated officials and some of the nominated non-officials. Owing to the lack of support, it has to fall back on the exercise of its over-riding powers, extreme or emergency powers as some would have liked to call them, and the use of these powers tends to become normal. The Swarajist tactics of wilful obstruction in the Assembly practised in March has only accentuated this tendency. But the more the Executive sets aside the vote of the Legislature, the less important the vote becomes, and the less accountable for it the Legislature feels itself and is felt to be. So the legislators vote with the knowledge that the final responsibility for the adoption of any course on which their verdict is sought would not be theirs, but that of the Government which sits as a Court of revision on all verdicts not agreeable to itself, suffering some to remain and reversing others. This arrangement, again, militates against the growth of a sense of responsibility on the part of the legislators. The argument applies equally to the Provincial Councils so far as the reserved subjects are concerned. In so far as an irresponsibility of attitude is promoted by their criticism of and votes on matters of reserved administration, it tends inevitably to affect their conduct in respect of transferred matters also. We are only noting here the tendencies which are called into play by the functioning of the present Constitution and are likely to get more and more pronounced as time passes. We do not mean to reflect upon the conduct of the Legislatures which, in spite of the defects and difficulties experienced in the working of the Act, have done very creditable work, indeed.

We may consider here the position of the Government also. There is a very general recognition on all hands that India needs a strong Central Government. It has of course to have military strength to defend the frontiers; but that is not enough; it should also be constitutionally strong; not to override the Provincial Governments when these are supported by their Legislatures, but to decide on thorny inter-Provincial matters, and secure the passage necessary and desirable legislation in that large sphere of important subject which is classed as all-India. The Government is beginning moreover to take a larger part as an independent constituent of the federation of Nations comprising

the British Empire, representing the people of India in the settlement of inter-National as well as Imperial questions. It is of the utmost importance then that it should be in a position to implement the decisions accepted by it in this capacity, and freely and readily to express the Indian point of view in all matters coming up before it. The Government of India is and will be feeble for all these purposes, except Defence, unless it is so constituted as to be free and able to reflect the country's will and carry it out. Its present position is one of weakness, and is a source of embarrassment to itself, and causes vacillation and inefficiency. It has to carry out the orders and secure the sanction of the Secretary of State to its proposals, but it has also to deal with the Assembly with which it naturally does not wish to come into conflict if it can help it. Hence there has to be much preliminary manœuvring in order to bring them into line with one another so far as possible, and effect a compromise between their respective points of view. To all appearance the decisions of the Government on the questions of Army Indianisation—the reference here is particularly to the 8 units scheme—protection of Indian industries, and the G. I. P. and E. I. Railway management bore the marks of such compromise. The Government of India was also evidently hard put to it first to persuade the Secretary of State to accord his sanction to its Racial Distinctions Bill without making too many changes in the measure and later to persuade the Assembly to pass the Bill with the reservations which the Secretary of State insisted on. In the case of the Reciprocity Bill introduced by Dr. Gour, it first assumed an attitude of opposition presumably as a token of loyalty to His Majesty's Government, to whose Kenya decision the Bill was designed as a retort. Later realising probably the strength of Indian feeling on the subject of treatment of Indians in the Colonies, it helped to pass the Bill into law. But it has not seen its way as yet to take action under the law. Those persons who have been in the Executive Council of the Governor-General will, we believe, be able to recall instances of the kind we allude to. The public to which what passes behind the scenes has to remain hidden at the time can only judge the position of the Government by indications, probabilities and argument from constitutional premises. The Government of India, not being certain of securing the support that is necessary for measures which, if free to act on its judgment, it would like to introduce, has either to modify the measures in order to make them acceptable or do without them. It cannot aim at the best. It has to be content with the second best, or the third best. It has to resort to make-shift, and be satisfied with compromise. Not being (in spite of the presence of Indian members in the Executive Council of the Governor-General, who are chosen by him) sufficiently in touch with the currents of public opinion especially in social matters, it hesitates to act where action is necessary. It can never pursue a policy which is boldly progressive or capture the imagination of the people. Its hesitation to accept the Civil Marriage Bill promoted by Dr. Gour, a Bill, which a progressive National Government would have been glad to sponsor, in spite of possible orthodox opposition, and its indecision in the matter of raising the Age of Consent were eloquent of the weakness of its position. The Government knows that it is unpopular enough on political grounds; it probably does not care to court additional unpopularity by reason of its attitude in social matters. Contrast with this the attitude of the Madras Transferred Government in relation to the Hindu Religious Endowments question (into

the merits of which it is unnecessary to enter here); one realises the courage and decision with which a National Government can grasp nettles which frighten and keep off foreigners. Large questions bristling with thorny controversial issues still await the coming of a strong National Government to handle them, such as, to mention one, the redistribution of provincial areas on linguistic lines, without which responsible Government cannot strike roots into the soil of the vernacular speaking masses. The one attempt made by the bureaucratic Government to readjust boundaries, which involved the partition of Bengal, was attended with disastrous political consequence. Only an Indian Government, strong with the confidence and support of the people and with its knowledge of their sentiments, can handle with courage and success the many problems of reconstruction, social, legal and political, which await solution. The weakness of the Central Government in the face of a situation bristling with problems requiring for their solution the strength and courage coming from a knowledge of, and an intimate association with, the sentiments and thought-currents of the people is an arresting feature, betokening a serious defect, in the present Constitution of India.

We have already indicated some of the difficulties felt by the electors in the working of the Act in our reference to the inability of their representatives to protect the people from the imposition of taxes obnoxious to them, and the enactment of Bills which are harmful to the interests of the country or menace the civic rights and liberties of individuals. The Assembly found it necessary to pass a resolution demanding that the Governor-General's powers of Certification of Bills should be limited by safeguards against abuse. The argument that he has been hitherto able to secure the assent of the Council of State to Bills which he has recommended in anticipation of being obliged to certify them, is no proof that the Certification was either right, wise, or expedient. The Council is a wholly unrepresentative body with a very narrow plutocratic electorate and a large official and nominated element. The fact that it has sided with the Executive on the occasions on which the latter has been at loggerheads with the popular Assembly, only proves the necessity for radically reforming or doing away with that body. It should, moreover, in accordance with democratic precedents, have no power over money Bills. It has not any voice in the disposition of funds over the budgeted heads of expenditure. The provision that certified Bills should be laid on the tables of both Houses of Parliament and receive their assent, either tacitly or explicitly signified within a specified period of time, has proved an illusory safeguard. The Government of the day will always feel bound to uphold the action of the Governor-General who is its agent. And its supporters in Parliament will ensure the defeat of any motion challenging his action. The certification of the Salt Tax last year, the most unpopular of all taxes with the masses of the people, against the thrice recorded vote and warning of the Assembly has impressed on the mind of the people, who had previously believed that at last in matters of taxation the voice of their representative would prevail, the idea that the power of certification vested in the Executive is one which is liable to very serious abuse and should be taken away as soon as possible. If there is one defect in the Act which looms larger than any other in popular estimation and hides its virtues, it is the power of promulgating laws (including money Bills) independently

of the Legislature vested in the Governor-General and the Governors and the power possessed by them in Council to restore the grants for items in the budget refused or reduced by the Legislatures. The exercise of these powers is already being met with the suggestion that the Legislature should retort on the principle of Grievances before Supply, and withhold supplies. If these extraordinary powers are taken away then the situation would present the conjunction of an irremovable executive with a largely elected Legislature with powers to paralyse the initiative of the Executive, deprive it of its freedom of action and reduce it to the position of a subservient staff with limited powers. Whether such a system of Government would be the best for India or not need not be discussed here; it would involve the elimination of Parliament's control, which as India's future system of governance has been envisaged so far, has been planned to accompany the establishment of responsible Government. Hence, the Home Member argued cogently in the Assembly, the extraordinary powers must be retained so long as the responsibility for the administration is not devolved on the electors. They fill the void caused by the lack of a majority in the Legislature to support the Government, in other words, the inability of the Government, constituted as at present, to lead the Legislature and enjoy its confidence. Thus described, the absurdity of the present arrangement becomes apparent. It is highly irritating to a people who feel that defeated in argument the Government resorts to the application of brute force, and that because it is strong enough to hold the country it can act regardless of popular wishes and consent. The only way in which this great defect can be removed is by a drastic amendment of the Act which would entirely revolutionise and re-orient the position of the Government of India, cutting it off from the relation of " a subordinate branch "of the Government in Whitehall, and putting it in a relation of responsibility to the representatives of the people whom it governs. It is scarcely necessary to point out that when once the vital link between the Government of India and the Secretary of State is severed, the basis of the bureaucratic system of Government in the Provinces automatically collapses, and the way is paved for the establishment of Provincial autonomy on the foundation of responsibility to the Provincial electors in regard to all matters suitably classified as Provincial and not all-India.

How far the present Act enables the electors whom it has called into being to influence effectively the policies of the administration is a point which is carefully worth considering. It is no use arguing that its object was to confer only limited opportunities upon them. You cannot raise a host of political genii and refuse to reckon with them. If not yoked to constructive endeavour, they will be easily stirred to destructive activity. The Joint Select Committee on the Government of India Bill recommended the establishment of a Convention that in matters on which the Government of India and the Indian Legislature were agreed, their joint decisions should be given effect to. This Convention, except perhaps with regard to fiscal matters, has been more honoured in the breach than in observance. The list of resolutions on Army reform which have been passed by the Assembly with the assent of the Government of India and have not been given effect to is proof positive of our assertion. We say " perhaps " even with regard to fiscal matters, for the Government of India has not been released from the necessity of previous consultation with the Secretary of State and obtaining his previous sanction for various matters; and

there is no means of gauging the extent to which its decisions are influenced or determined by him. It is not free to pronounce its independent judgment or seek accord with the Assembly. The fact that such a convention was suggested (after the very careful weighing of the *pros* and *cons* with regard to it) indicates the recognition of the place which the Assembly was meant to take in the new order of things. The Government of India could not go on as it did before in spite of its unimpaired constitutional position *vis-à-vis* the Secretary of State. The greater the extent to which it made itself responsive to the Assembly, the greater the success of the Reforms. We do not deny that in spite of its handicaps the Government of India has evinced a good deal of anxiety to meet the wishes of the popular representatives. We are concerned here not with the extent to which it has been able to meet them but the extent to which it has not been able to do so. For if the one indicates the merits, the other reveals the defects of the Reforms scheme, which are serious enough to be removed without delay.

So far as financial dispositions are concerned, the most serious defect is the inability of the Assembly to vote the military budget, or even discuss it without permission given by the Governor-General. The military policy, which is largely influenced by the War Office, was responsible for an expenditure of no less than Rs. 72 crores in the year 1922-23 and has been steadily and of late very rapidly rising. Both the policy and the expenditure are entirely out of the Assembly's control. The Indianisation of the Army on which all Indian hearts are set does not advance because the Assembly has no means of insisting upon it. As regards Civil estimates the Assembly's vote is liable to be set aside at the discretion of the Government. In the matter of legislation, there are difficulties here, as in the House of Commons, in the way of private members securing the ballot for their Bills and of piloting them successfully through all stages in both Houses of Legislature. But the disappointment and disability caused by these difficulties to the general population is much greater here than in Great Britain or other self-governing countries. There the need for legislation through private members' efforts is largely obviated by the Government itself undertaking to introduce the measure advocated and urged by its party supporters; so that if there is a pronounced need or wish on the part of constituents it has very good chance of being attended to by members, and at their instance by the Government which depends on them for support. In India such is not the case. Hence the very large number of resolutions, extraordinarily large in the eyes of those accustomed to watch the system of Government working in the West, of which notice is given by non-official members; of those among them which are admitted for discussion, only a very very small percentage succeeds, through luck at the ballot box, in obtaining places on the agenda, and a fraction of this very small percentage is actually discussed, frequently with no effect even if they are passed. For instance, in one session of the Bihar Legislative Council, the number of resolutions sent was 95; of these 12 were disallowed either by the President of the Legislative Council or the Governor; of the remaining 83, 70 were not taken up at all, owing no doubt to lack of time; and only 13 resolutions were discussed. Two were withdrawn; two rejected; and nine carried. In another session of the same Council out of 101 resolutions only seven were passed, all the rest being casualties at one stage or another. If the resolutions which have been passed are examined with reference to the

action taken on them, remarkably few will be found to have succeeded in gaining their objects. The fact that members have heaps of resolutions which they consider worth discussing show the multiplicity of features in the working of the administration which in their view call for correction. It is impossible of course that time can be found for the discussion of all of them. But it is wrong to maintain unreformed a system which breeds grievances in plenty and does not afford ready means of remedy. The only effective and rapid way in which grievances can be guillotined as they arise and suggestions as to changes needed readily absorbed and carried out if advisable is to provide a system of Government which will be amenable to suggestions, and sensitive to public opinion expressed through easily available channels.

We referred to the number of passed resolutions which remain without effect, the most notable among them being the military resolutions passed with the Government of India's concurrence in 1921. Other resolutions, even when the Government has promised to carry them out, take far too long to attain that result. It was hoped when the Reforms were inaugurated that one of its blessings would be a greater despatch in business. This hope to a large extent remains unfulfilled. Resolutions for the separation of Executive from Judicial functions have been passed by every single Legislative Council in India and by the Legislative Assembly; the Governments regarded them with sympathy and in some Provinces definitely promised action. Three years have elapsed, and in no single Province has any scheme been introduced as yet. Proposals have no doubt been sent up by the local Governments to the Government of India, and from the latter to the Secretary of State; they are probably being minuted upon by diverse officials in Simla and London, subjected to criticism and counter-criticism, and shaped, re-shaped and meditated upon. Whether the net result will give satisfaction to the Legislative Councils yet remains to be seen. In the meanwhile the people continue to suffer under a disability which the Congress considered about 40 years ago was one which should be urgently removed. We make bold to state that if the Government were acting under the stimulus of responsibility to the popular representatives, and there was no need to consult the India Office, this reform would have been carried out within six months of the undertaking to effect it.

The present constitutional machinery requires far too great a quantity of power to be generated to be moved to produce, at a heavy strain, with much labour and after the lapse of considerable time, the desired result. It needs to be simplified by getting rid of its clog-wheels (the India Office) and letting the steam pressure (the electoral will) turn it more effectively to the desired constructive ends.

Most of the arguments for effecting a change in the constitution of the Government of India apply *mutatis mutandis* to that of the Provincial Governments on the reserved side. We need not therefore recapitulate our arguments with reference to them. But we may usefully glance at the difficulties of the Ministers. Mr. C. Y. Chintamani, *ex*-minister in the United Provinces and the Hon. Sir A. P. Patro, Minister in Madras, have both spoken out freely of the difficulties of their position which are inseparable from diarchy. As the present and past ministers will be examined by the Reforms Enquiry Committee, in public, it is unnecessary to develop the arguments which they are likely to

advance. Summarised, the difficulties would appear to be as follows. The system of irresponsible Government as regards reserved subjects has bred "irritation and despair". The suspicion with which the Reserved branch is regarded tends to envelop the Transferred also, for no fault of its but the close association of the two. The Legislative Council would not look at a single taxation proposal, because it thinks that its proceeds would only go to maintain a costly system of Government manned with European officers, and would not be wholly utilised for the promotion of beneficent schemes. The Ministers are frequently placed in the unenviable position of having to vote either against their associates in the Government with whom they have to get on, or their supporters in the Legislative Council. The Governor has excessive powers. He makes all appointments, he is consulted directly by heads of departments and Secretaries over the heads of the Ministers, he can over-rule the Ministers. Under the business rules which he has framed "extraordinary" powers have been given to the heads and Secretaries. The finance department having been made a reserved department by a rule, and placed in charge of a member of the Executive Council, the Ministers find it hard to secure from it the sums needed for their purposes. The department has, in practice, against the intentions of its creators, arrogated to itself the power of allocating expenditure for the different administrative purposes and thus regulated policy. Moreover, owing to the system of Provincial contributions which neither the Ministers nor the Legislatures have been able to alter, so closely is it knit with other matters in the system of administration over which they have no control, the Provincial Governments have been left with empty exchequers, so that development on any large scale is practically impossible. Add to these the strict control which the Government of India still retains over Provincial legislation by requiring that its previous sanction should be obtained for Bills relating even to purely Provincial matters and for every single amendment proposed thereto, and the hampering effects of certain subjects being reserved while closely related ones are transferred; one can easily realise that Ministers have responsibility but not enough power or freedom. They have moreover to carry out their policies through Services controlled and recruited by the Secretary of State and not in sympathy with those policies. So far as the members of the Legislative Council and the electors are concerned, they have the additional handicap, in making their wishes felt, of a block of nominated officials in the Council voting against them but without representative capacity. This is true not only of transferred subjects but also of the reserved and the central. The remedy for the state of things in the Provinces can be found in an alteration of the rules under the Government of India but how far the transfer of all subjects to the control of Ministers, practically obliterating the Executive Council, would be consistent with "the structure" of the Act, the essence of which is dyarchy, is a debatable point. If it is thought that the abolition of dyarchy would destroy the plan on which the Provincial edifice is reared, then the stronger becomes the case for a drastic amendment of the Act, without which the defects inherent in the very structure of the Act will remain and become worse and worse in their effects as time passes.

LETTER FROM M. R. RY. PANDIT GANALA RAMAMURTHY GARU, CHIEF WHIP, THE ALL-INDIA VISWAKARMAN LIBERAL FEDERATION, CAMP RAJAHMUNDRY, GODAVARI DIST. (S. INDIA), TO THE PRESIDENT, THE REFORMS ENQUIRY COMMITTEE, SIMLA, DATED THE 11TH OCTOBER 1924.

(1) I was in due receipt of the letter dated 6th August 1924 by your Honour's Secretary, Mr. Tonkinson, acknowledging the statement I submitted on behalf of the Viswakarman community of India respecting their attitude towards the Government of India Act of 1919.

(2) I beg to remind your Honour that I have not yet been given any opportunity to offer evidence before your Honour's Committee, although I have been duly authorised thereto by the Federation which I represent.

(3) I enclose herewith a copy of the Memorial which was recently submitted on behalf of our Federation to the Secretary of State for India. I request your Honour will kindly consider this as a sequel to the Statement I furnished before.

(4) I request further that your Honour will be pleased to intimate to me the date when your Honour's Committee may find it convenient to take down the evidence I propose to offer.

To

THE RIGHT HONOURABLE LORD SYDNEY OLIVIER,

His Majesty's Secretary of State for India-in-Council,

London.

Through the Government of India, (Home Department,) Delhi.

May it please Your Lordship,

WE, THE MEMBERS OF THE TEMPORARY DIRECTORS' TRUST OF THE ALL-INDIA VISWAKARMAN LIBERAL FEDERATION, a body which represents the public opinion of the industrial labourers of His Majesty the King-Emperor in the whole of India, in pursuance of resolutions unanimously passed at several Conferences held under the auspices of our Federation, most respectfully crave permission to approach your Lordship with the following prayer, in view of the Reforms Enquiry Committee recently appointed to enquire into, and report on, the working of the Government of India Act of 1919.

1. Our Federation was established in the year 1917 with the primary object of promoting the moral and material welfare of our community by strictly constitutional methods. Our community which, according to the Census Report of 1891, comprised over thirty millions, and which must have considerably increased in the interim so as to embrace at present not less than an eighth of the population of India, consists chiefly of the traditional handicrafts-men of India, including, among others, carpenters, wood and ivory carvers, stone and metal sculptors, gold, silver, brass, iron and other metal-smiths who may otherwise be described as the industrial backbone of India. The services of our community being in daily requisition in almost every part

of India, we have failed several times in the past to organise an All-India movement through the medium of which we could force upon the attention of the Government our need for special protection, and the futility of a general electorate in improving our social or political condition, while our besetting poverty, due on the one hand to the trammels of the Indian caste system and on the other, to the misuse of power customarily vested in the educated classes, has tended to blot out what little of public feeling there was in the great bulk of our community. Even to-day, there are many among us so depressed and embruted with hard toil and the struggle for animal existence that they scarcely have the leisure or the inclination to think of public affairs or to understand the foundation principles of civic justice, national well-being or communal helpfulness. What is true of our community is nearly true of the agricultural classes who constitute such an overwhelming majority of the people of India, but who, nevertheless, have so little realised the splendid possibilities of democratic rule by reason of their blind obedience to the dictates of their traditional leaders.

2. So far as our community is concerned, it is needless to add that we have always worshipped our kings as our deities so long as they refrained from interfering with our freedom of thought, speech and action. What we now or ever contend against is not so much the form of government as the social injustice done to us, and the political obscurity into which we are liable to fall in consequence. The insidious distinctions drawn by the Hindu law-givers and their concepts of social structure by which they sought to favour the growth of one community at the expense of another would be shocking to every sentiment of honour and revolting to every principle of modern liberty and justice. The classification adopted by them that the Viswakarmans should be treated as the left-hand class and the rest of the people of India, including even the untouchables as the right-hand class has long exercised an amount of influence on the imagination of the masses which has retarded our progress in every field of public activity. It is difficult, without the fear of wearing, to detail to Your Lordship the story of untold miseries and sufferings to which our community was subjected under both Hindu and Muslim rulers. That, even to-day, we have been practically excommunicated and excluded from the ordinary privileges of Hindu Society is a fact amply well borne out by numerous judicial decisions in India and the labours of Western research scholars. Communal heads have also arisen from time to time trying to curtail our religious and political liberties, and to extort unquestioning obedience to the lead of the superior castes.

3. India is not a single nation but a conglomeration of peoples separated from one another by caste, creed, language, history and inherited antipathies. They have nothing in common except submission to a common political power. The disruptive factors of caste and religion have not yet ceased to exercise their pernicious influence on the progress of India. A common civilisation and a common enthusiasm for the future of India which are sometimes emphasised by the educated classes as the fundamental basis of Indian nationality are, in our opinion, arguments which scarcely hold water when applied to the existing facts of life. By reiterating features of Hindu society which are so remotely related to real national feeling, the educated classes delude both the government and the masses into the belief that India is fit for *immediate* Home Rule.

Nor are we alone in this convi tion All thoughtful people—except a few who, prompted by personal interest, focus their attempts upon immediate Home Rule—make a sad confess on that the confused and heterogeneous races of India do not admit of being welded into a single community animated by common ideals and common aspirations. and capable of successful autonomy. The overweaning pride of birth and caste and the age-long tendency to dominate over the weaker communities have brought about a kind of mentality in the superior castes which is high y prejudicial to democratic ideas, and scarcely conducive to national welfare.

4. That caste prejudices and communal antipathies still sway the whole fabric of Hindu society is a fact too well known to need elaborate comment. The competition between Art and Literature in ancient days led to the inclusion in the Hindu Codes of law of certain aphorisms which assign to Art a mean and despicable place in the Hindu Scheme of life and thought. Even at the present day, it is regarded as almost sacriligious to act in contravention of those codes, and to show to our commun ty the respect which is its due. The result is that the community to which we are proud to belong, and to which cou'd be traced the artistic achievements of ancient India is stil t eated as a contemptible class of labourers scarcely deserving of social recognition and political freedom. We therefore earnestly trust and pray that the portions of the Hindu Codes which cond mn our community and its legitimate occupations should be proscribed in the interests of nearly forty millions of the people of India.

5. The trades and occupations of India are, unlike those of the Western nations, closely interwoven with the cast-iron system of caste. Hindu customs as well as Hindu Codes of law forbid the free movement of labour from one occupation to another, dividing the people in general into so many water-tight compartments. The traditional occupations imposed by the caste system are not to be forsaken in favour of the more honourable or more lucrative lives of profession, so long as a particular individual bears the stamp of a particular caste. But, be it said to the credit of the British Government that the liberalizing influences, which have followed in its train, have not only emancipated the people from the darkness of ages but have tended to loosen the hold that the caste system and the codes of law on which it is ounded have long possessed over the popular imagination. There is yet ample scope for public work n this direc ion. Educated men are needed in increasing numbers to wipe out the dwarfing influence of custom, and to dispel the blind, unquestioning faith exercised by the masses in the infallibility of the *Sastric* injunctions. But men of light and leading in our community have become so conspicuous by their absence that we urgently require some form of representation in the councils of the Empire by which we might counteract the tendency of the educated classes to extirpate western civilisation, and their attempts to revive, in the name of political agitation, the ancient ideals of class domination and communal jealousies. The longstanding rivalry between us and the Caste Hindus, and the fact that the members of the legislative councils are either Brahmans or Hindus other than Viswakarmans are conjointly responsible for the state of political inertness and social inferiority into which we have fallen. The lack of insight on the part of the Muslim and Christian representatives into the condition of our community makes them in no sense

our enlightened spokesmen able to ventilate our grievances and enforce our demands. We have thus been made *exparte* from the Councils of the Empire, and treated as worse than political *pariahs.*

6. It is a well-known fact that eighty per cent. of the people of India are still in the background, unable to grasp even the rudiments of the modern forms of life and thought. Of these, the educated class form only a negligible minority; of the educated class only a fraction seek entrance into the councils of the Empire, and monopolise all positions of power and responsibility. Graduates, Lawyers, Doctors and retired servants of Government who thus flood the councils form but two per cent. of the total population of India. It seems therefore scarcely reasonable to suppose that the wishes of the masses of India are fully represented in the councils, and that, by Indianising the services or by investing India with Dominion Status at this stage of her development, the people at large would be benefited in any degree. We therefore accept without hesitation the recommendations of the Lee Commission in regard to the protection sought to be given to the Civil Servants. We support the section of the Indian community who oppose the extension of full Provincial Autonomy, and pray for the strict enforcement of the clause in the Government of India Act of 1919 that, every ten or fifteen years after the inception of that memorable Act and not earlier, certain desirable changes may be introduced into the constitution of the Indian Government.

7. The authors of the Reform Act of 1919, have, in our opinion, committed an egregious blunder in granting separate representation to Muhammadans, Christians, Anglo-Indians, Non-Brahmans, Sikhs, Depressed Classes, Land-holders, Universities and Chambers of Commerce, etc., while withholding it from communities which need such special protection at their hands. We honestly believe that the principle which underlies the extension of separate representation to the former communities applies with equal, if not greater, force to the latter. The creation of a mixed electorate for the latter communities of India has had a twofold retarding influence on its progress. Firstly, it has weakened the confidence of the people in the Government who have so few opportunities of realising the manifold benefits of British Rule, and the magnanimous spirit which has inspired them in announcing that India shall be placed on the road to full responsible Government. Secondly, it has raised a form of oligarchy, gradually increasing in strength and number, which is constantly on the alert to sap, if possible, the foundations of British Rule in India. For years past, they have proclaimed, as their goal, Self-Government for India by all constitutional methods. Now that they have gained an immense influence over the masses, some of them, purblind fanatics that they are, have turned into a group of anarchists and openly declare that the British connection is no longer necessary for the attainment of Home Rule. We devoutly pray that franchise may henceforth be granted on communal lines so that the various castes and communities of India may be represented in the Councils, Such a system would not only restore the confidence of the people and keep them in touch with the progress of events in the political world but would arouse in them a full consciousness of their rights and responsibilities, and help forward that harmonious development of India which, in

time, will fit her to take her place among the foremost nations of the world. We trust that His Majesty's Government will no longer heed the great diversity of opinion, now dividing the people with hope and horror as to the composition of the future legislative councils. The professed party of progress, notably the Brahmins, would, of course, resent every restriction tending to prevent them from getting all power into their own hands. We would insist on the representation of every community by genuine members of that community and the recognition of the rights of minorities and neglected interests, as the rule of a small educated Anglicised class would be tantamount to the enslavement of the whole body of the people. The civilisation of India, though great in its own way, is lacking in those liberal ideas which are the offspring of Western civilisation. Whatever its philosophical conceptions, it fails to recognise in practice the equality and fraternity of men. We would urge at the same time that the number of seats for the educated classes should be strictly limited with a view to safeguard the interests of the helpless millions.

8. That communal representation is no longer necessary and desirable, and that therefore the special representation hitherto granted under the Reform Act of 1919 should be absolutely done away with are arguments in favour of immediate Self-Government advanced several times by some of the progressive communities which seek to promote their own interests at the expense of those of the weaker and needier. The salutary effects of communal representation granted in the past are best evidenced in the moral and material progress made by those communities to which it has been specially conceded. If therefore it is deemed just and wise that communal representation should be abolished, it must begin the case of those communities already helped by this system and not in respect of those which are still steeped in social inferiority and political backwardness. Muhammadans, Sikhs and Christians, who, for a decade or more, have been favoured by this system, have attained a degree of progress in all spheres of public life, that, so far as they are concerned, the continuance of this system may be regarded as hardly necessary and wise. It follows naturally from this reasoning that the small artisans and day labourers who barely eke out an anna per day of wages do need such special protection and that the only key to their progress lies in a system of representation which proved so fruitful of results before.

9. The demand for immediate Home Rule comes from a narrow but growing body of professional men who have sprung up under British Rule and British training, but have failed to imbibe their liberal ideals. They gain their importance, on the one hand, by their access to, and power of appeal from, the very bureaucracy which it is their special object to overturn and without whose help it is impossible that they should ever succeed. And on the other, the political influence that they command and the superstitious deference paid to it by the populace are the evils which they would fix upon and turn to account in the realisation of their schemes for immediate Home Rule. These form the incubus that at present stifles Hindu Society. Selfishness, my Lord, inheres in the Indian communities as much as thirst and hunger do in individuals. One of the important doctrinaires of early Indian polity affirmed it as the cardinal principle of his system that self-interest should be the main-spring of all worldly action. The same author observes at another place that even a father ought not to be trusted. It seems therefore scarcely

possible that the educated classes, who so rigidly adhere to the principles of early Indian polity, will ever promote the welfare of the voiceless millions, if they are clothed with full autonomous powers. The so-called party of progress, by their agitation for immediate Self-Government, aim not at equality in political rights, and in the conditions of social life, but at those splendid vistas of glory and power that a politically free India would open up before them. A contrary view would be at variance with every teaching of the Indian Social Sciences, and the more evidently monstrous, the more evidently it is understood. Hence it is that the educated classes criticise and deprecate every scheme which seeks to tamper with their monopoly of power and to awaken the masses to a full knowledge of their rights and liberties; and their aversion to communal representation fails to justify their assertion that the interests of the dumb millions would be better cared for and protected in a Self-governing India.

10. Our community is agreed that Indian Nationality would be a chimera and autonomy under British Suzerainty an impossibility, unless India advances along communal lines. Communal representation must be the chief instrument for improving the condition of the people, and the necessary preliminary of any possible union and co-operation. Government of the people, by the people, for the people is a conception peculiar to the Western systems of polity. It is wholly alien to the Indian mind which has been habituated to various forms of despotism and is therefore slow to assimilate the full significance of such a lofty conception. In all lands where this concept of Government has been accepted, it has given a broader outlook to its recipients and has brought about a keener and fuller estimate of personal and collective possibilities. In India, too, it has indeed awakened to self-consciousness, minds long submerged in ignorance and superstition. But it has also mothered and vivified long pent-up caste prejudices and racial jealousies. It has served to keep in swaddling clothes communities which contributed a great deal to its civilisation and culture while it unreasonably heightened the hopes and aspirations of others. In a word, it has made the literate oblivious to the claims of the illiterate. Hence some form of representation by which the views and wishes of the various communities may be directly ascertained is necessary in the interests of sound progress and good government. It is for this purpose we submitted in 1917 to Mr. Montagu, the then Secretary of State for India, and his contemporaneous Viceroy, Lord Chelmsford, a monster petition signed by nearly 17,000 Viswakarmans asking for special representation. We also memorialised the Meston and Southborough Committees on the same demands, but failed to meet with their favourable consideration. We beg to submit, in this connection, that, while referring recently to the legitimacy of our demand for communal representation, Colonel Sir Charles Yate asked in the Parliament what action the Government of India had taken thereon, Professor Richards, M.P., the Under-Secretary of State for India, was pleased to reply that the question would be gone into soon after the conclusion of the enquiry now being conducted by the Departmental Enquiry Committee in India.

11. It will not be out of place to mention here the double injustice that we suffered under the Government of Madras:

(*i*) A Brahmin Member of the Madras Executive Council, Sir (then Mr.) P. Sivaswamy Iyer, who is now participating in the deliberations

of the Departmental Enquiry Committee, when he was in charge of the port-folio of Law, issued a G. O., objecting to the suffix, "Achary", usually adopted by the Viswakarmans in their names and seeking to enforce, in its place, the word, "Asary", which is weighted with common odium. Though there was neither necessity nor authority to justify the action taken by the Law Member, the G. O. was published by the Law Department as if on the recommendations of the Spelling Mistakes Committee. It happened to our misfortune that the non-official members of this committee were drawn largely from the Brahmin Community, who never knew how to respect the rights of their sister communities, and never informed us of the line of action that they were decided upon. It was dealt more or less as a stab in the dark. We memorialised His Excellency Lord Pentland requesting to have our wrongs righted, but His Excellency thought it wise not to interfere in a matter which concerned the vital interests of our community. A member of our community who was nominated to the newly constituted Legislative Council of Madras in 1920 as a special representative of our interests, moved a resolution touching this subject. It was, however, with drawn on the then Law Member, Sir K. Srinivasa Iyengar's assurance that the Viswakarmans' wishes would be acceded to in this respect, and that they should no longer agitate for it. What we wish to emphasise in this connection is the recognition ungrudgingly granted to the depressed classes who, however low in the scale of civilisation, were ordered to be treated as "Adi-Hindus" and, as such, entitled to certain respectable terminations instead of the odious suffixes that they sometimes voluntarily employed in their names by reason of their ignorance. The case of the Oriyas is still more remarkable. Their names are to be preceded by "Sriman" and terminate in "Mahasaya". This particularly adverse attitude towards our community cannot be accounted for except on the ground that the Brahmins, who have been our avowed opponents from times immemorial, sought to curtail our liberties when they found themselves in possession of power sufficient to enable them to do so with impunity. Even today, there is no authority under which census-enumerators could be compelled as of right to record the names of Viswa-Brahmans with the desired suffix.

(*ii*) When, under the newly constituted Council at Madras, Lord Willingdon was pleased to nominate Mr. Muddu Manikyacharlu of Trichinopoly as a special representative of our community, we could not enforce our demands owing to the ignorance of practical methods on the part of this gentleman, as he was a practising Vakil and so, had little opportunities of acquainting himself with our wants and grievances. This nomination was of course made under the direction of that fearless champion of the poor and the afflicted, Sir P. Thyagaraya Chettiar of Madras, who is more devoted to the cause of the depressed classes than

a million professed Brahmin altruists. For the reasons stated above, Mr. Manikyacharlu was able to achieve very little for our community during the three years of his tenure as a member. Our community cannot be held responsible for the actions and words of a gentleman who was nominated in preference to several other disinterested workers who have been putting their heart and soul into the work of uplifting our community. Mr. Muddu Manikyacharlu belongs to the Tamil Community and so it was urged during the second term of the Council that an Andhra should be nominated and that M. R. Ry. Pandit Ganala Ramamoorthy Garu, of Rajahmundry, Godavari District (S. INDIA), would be the most fitting person to be selected for the purpose, in case he could not be recommended as our representative to the Legislative Assembly. Resolutions were passed at four successive Conferences of our Federation urging these demands on the Government of Madras. A monster petition drafted in pursuance of this resolution and supported by nearly 20,000 Viswakarmans was also submitted to His Excellency Lord Willingdon, but this time, his ill-advised Law Member the Hon'ble Mr. (now Sir) C. P. Ramaswamy Iyer, to whom was delegated the work of nominations, deprived our community of what little representation it had formerly been allowed, although he happened to include once again the name of the said Mr. Manikyacharlu in the preliminary list. It was averred by the Law Member that the nominations list was prepared in accordance with the recommendations of District Collectors. It was therefore a glaring piece of injustice that, although Pandit G. Ramamoorthy Garu had been duly recommended by the Collector of his District, his name should have been passed over as being of little consequence. A further encroachment on the rights of weaker communities made by this gentleman is evidenced in the fact that, in addition to the seats filled by duly elected Brahmins in the central and provincial legislatures, he was pleased to nominate some more of his community for the seats assigned to the Backward Classes, and to recommend none but Brahmins for nomination to the Council of State, and the Legislative Assembly. In this connection, we beg to submit that, in making nominations, it would be far from wise that the recommendations of District Collectors should be wholly depended upon. We fail to discover on what principle the Hon'ble Member who, as the co-adjutor of Dr. Besant, had for years past declared in the name of the Congress that Indians of whatever colour, creed or language constituted a single nation, should have treated our community with such special contempt of our rights. This might serve to illustrate to Your Lordship that each progressive community of India is inclined rather to ride rough-shod over the rights of the weaker than to imbibe and practise the broad-minded ideals of Western democracy. Protesting against the absence of representation for the Viswakarmans during the

second term of the Reformed Council, a resolution was passed at a conference of our Federation held at Vizagapatam, whereupon a leading article advocating our demands appeared in an issue of the *Andhra-Advocate*, a reputed "weekly" in the Telugu Districts. In reply to our agitation, the Hon'ble Member declared that, although he was convinced to the full of the justice of our demands, he could do nothing in the matter then, as the seats set apart for nomination had all been filled up by that time. When we approached the India Government on this subject, we were disappointed to see that our cry was heeded no better than a cry in the wilderness. The reason is not far to seek why even the Central Government should have been so indifferent to our rights and liberties. We beg leave to affirm that the Brahmin Councillors of His Excellency the Viceroy were chiefly responsible for this particularly telling attitude towards us.

12. The question which we press for the consideration of Your Lordship is one of life and death to the Indian Industrial workmen at this critical juncture of their history. It is not a complicated question involving a complete overhauling of the administrative machinery, but a very simple one possible of solution by a slight adjustment of the forces at work. For, there is no race of human beings who are more devoted to their sovereign, more peace-loving, prudent and capable of helping themselves if they are given the chance, than the Viswakarman community of India. We do not and cannot wish for the absolute control of the administration, but what we earnestly demand is an adequate means of placing our views before the Government, before it passes legislative measures affecting our welfare and our rights.

13. My Lord, the demand for the formation of a Round Table conference and the suggestion consequent thereon of the then Home Member, Sir M. Hailey, that it would be advisable to institute a Reforms Enquiry Committee, both these circumstances bore fruit in the appointment of the said committee, and of Sir Alexander Muddiman as its President. The Committee is now taking evidence as to what further changes may be necessary and desirable in the existing Devolution Rules. But we are of opinion that the Committee cannot get a correct insight either into the degree of success attending the Reforms or into the attitude of the people in general towards the present constitution. Hence it is that at a conference of our Federation held at Chitoor in 1922, a resolution was passed urging the early institution of a Roya Commission. The close of the present enquiry may appear to Your Lordship an appropriate time to institute such a Royal Commission for the purpose of enquiring merely into the Devolution Rules on which the Reforms are carried on, but into the general condition of the people. Such an enquiry may elicit facts which are not now clearly known and may be fruitful of some sound suggestions for permanently ameliorating the condition of the vast Artisan and Agricultural Classes of India. With a view to secure a further and more substantial instalment of Reforms, a section of the educated class, ranged on the side of the extremists, are trying to enlist the sympathy of their friends in England to introduce a Bill in the Parliament, and thereby to establish in India an order of things in which the mediæval domination of one caste over another could be

revived. We respectfully submit that, if their wishes were to materialise themselves, the interests of the great Artisan and Agricultural Classes would be seriously imperilled.

14. My Lord, we are entitled, like the Muslim community about twenty years ago, to special consideration and even preferential treatment. We want that our community should take her rightful place alongside the other communities of India, that the minds of our youth should be directed towards industrial channels rather than the seeking of mere literary education or the courting of Government employments, that certain social abuses, now rampant within our community, should be reformed by speedy and effective legislation. It is to achieve these objects which we sincerely consider to be our *birth-right*, that we require an adequate measure of representation in all the legislatures, local as wel as central As the equal subjects of His Majesty the King-Emperor and claiming to be treated as such, we refuse to recognise the political superiority of one community over another, and pray that Your Lordship's regime will be marked by such ameliorative measures as will permanently improve the moral and material status of the Industrial labourers of India. We pray further that Your Lordship may be pleased to introduce an Indian Councils Reform Bill in the Parliament for reorganising the existing Councils on a communal basis constituting a separate electorate for the Viswakarmans according to their numerical strength. Until these changes are made, we desire that, in accordance with a resolution passed by our Federation at its Conference held at Vizagapatam in 1923, M. R. Ry. Pandit Ganala Ramamoorthy Garu, may be recommended for nomination as our representative either to the Council of State or to the Legislative Assembly. Pandit G. Ramamoorthy Garu, the Founder of our organisation, is an able journalist and an enthusiastic public worker, animated by a lofty sense of national duty who has spared no effort to disseminate modern ideas of liberty and progress among the rank and file of his community.

For which act of justice and generosity Your Lordship's humble memorialists will feel abidingly grateful.

We have the honour to be,
May it please Your Lordship,
Your Lordship's most obedient servants,

(Sd.) KASI RAMAMURTY AND OTHERS.
Members of the Temporary Directors' Trust,
The All-India Viswakarman Liberal Federation.

VIZAGAPATAM,
Dated the 11th October 1924.

Memorandum by Sir Purshotamdas Thakurdas, M. L. A.

According to the terms of reference of the Committee I am expected to state what I consider to be

(*i*) the difficulties arising from, or defects inherent in, the working of the Government of India Act, and, the Rules thereunder, in regard to

(*a*) the Central Government

and

(*b*) the Government of Governors' Provinces

and

(*ii*) to suggest remedies for such difficulties or defects, consistent with the structure, policy, and purpose of the Act ;

(1) by action taken under the Act and the Rules

or

(2) by such amendments of the Act as appear necessary to rectify any administrative imperfections.

From the trend of evidence, however, given by other witnesses, I understand that both as regards the diagnosis of the present political situation and the suggestion of remedies, I need not confine myself to the somewhat narrow limits prescribed by these terms. My remarks are based on this fundamental assumption.

2. I should like to mention one more assumption that I make in tendering my evidence. I take it that the definite and unalterable aim or goal of Great Britain with reference to this country is to realise the ideal of Government of the people by the people. Despite the note of alarm raised by some Britishers —small and great—well informed or ill-informed,—biassed or unbiassed, with or without Indian experience—I take it that the sole aim of British Rule in India is, and will remain, the sacred one of seeing India a self-governing country. It is really the pace of this progress that is under consideration, the object being not to delay the realisation of the goal, but to make it all the more sure, by preparing beforehand to meet the obstacles in the way of a speedy march to the goal.

A genuine difference of opinion regarding the pace of the progress in this direction is not only such as one can understand, but may even respect. For, no one trained in the hard, matter-of-fact school of commerce and commercial life can under-estimate the value of conservative and even over-cautious thinking. But the genuine and honest desire to devise every means to lead India there as early as compatible with due safety must be present unquestionably.

3. As belonging to the commercial community, I may say that in my opinion, arrived at after fully weighing the risk that India may be running in adopting what I recommend as a change in the constitution of Government, if the suggestions made by me are introduced and carried out in the same

genuine spirit in which I submit them, I am convinced that the risk from the changes would be, or, in fact, can be, small. The stake of the commercial community in the continued good government of India for ever hereafter is immense. Take away orderly and peaceful Government at any time for India, and the first to suffer will be the community dependent on trade and commerce and industry. No adequate safeguard for good government can, therefore, be overlooked by such a community in the demand for constitutional reform at any stage. The non-Indian merchant can, at the worst, leave the country in case of the unexpected happening. His Indian fellow brother cannot do that as he will hardly be welcome elsewhere, and his prospects of even a decent livelihood under any chaotic conditions would be remote. But in his zeal for the safeguarding of property and person, no Indian can for ever stand in the way of constitutional reforms, because after all, the best school for responsibility is responsibility itself.

Defects inherent in the Act.

4. My examination of the existing constitutional machinery must be prefaced by a consideration of the psychological aspect of the present political situation. Such a consideration is not irrelevant, but essentially germane to the investigation with which the Committee are charged. It is an axiom of modern political theory that the basis of Government is the consent of the governed. The smooth and efficient working of any constitution must primarily depend on the harmonious co-operation of those for whom it is intended. Unfortunately, discussion of constitutional questions affecting this country has invariably been vitiated by the dangerous and unwarranted assumption, in certain influential quarters, that there is a deep divergence of interests and feeling between the masses and the intelligensia ; that while the former are loyal to the present constitution, the latter are swayed by a sense of unreasoning disaffection ; that while the apparent contentment of the " dumb " millions must be sedulously sought and ensured, according to the lights of the ruling class, conciliation of the politically minded mino ity is neither desirable nor necessary. I wish to emphasise with all the earnestness at my command that this unnatural hypothesis must be abandoned. It is hardly right to think that the intelligensia of the country are unmindful or incapable of devising the best means for the swiftest development of the masses. What the intelligensia think today, the masses may begin t think tomorrow, and do certainly think the day-after. The history of the Non-co-operation Movement clearly demonstrates how the magic of a name may thrill them to a passionate, if uncomprehended, enthusiasm ; how under a less wise and pacific guidance the enthusiasm may assume undesirable manifestations. The only form of loyalty which conduces to the stability of a Government is the loyalty of those who understand and appreciate the benefits of good administration. Undoubtedly such loyalty can only come from the intelligensia, and the conciliation of the intelligensia must, therefore, form the main goal of statesmanship.

5. If this basic postulate be accepted, it is clear that the problem of constitutional readjustment will require broad and more comprehensive treatment than the terms of reference indicate. Educated Indian opinion is almost unanimously in favour of a revision of the existing constitution. There is equal unanimity as to the form which this revision should take. Complete

provincial autonomy and the introduction of increased responsibility in the Central Government are desired by every political party in India. This demand originates as much from a natural desire to hasten the realisation of responsible self-government, which is the declared goal of British policy in India, as from the defects of the existing constitution. The desire needs no comment. The defects are dealt with in the following paragraphs :—

6. I shall take Provincial Governments first. Dyarchy which is the main feature of administration in Governors' Provinces has had its critics from the very inception of the Reforms. Giving evidence before the Joint Parliamentary Committee on the Government of India Bill of 1919, Sir Michael O'Dwyer characterised it in the following terms :—

> "An Indian Province needs a united Government ; and this gives it a divided Government. An Indian Province needs a strong government ; and this gives it a weak one. An Indian Province needs a Government capable of strong action ; and this leads to delay and friction. An Indian Province needs a simple system of Government ; and this involves extreme complexity. An Indian Province needs a cheap system of Government ; and this involves a very costly one with elaborate methods of taxation and finance, which will certainly not make for economy. An Indian Province needs a Government which commands the confidence and ready support of the Services ; and this tends to divide and disintegrate the Services by making them serve two masters. An Indian Province needs a Government which secures good administration to all ; and this gives power to a small section and endangers the interests of the masses."

Before that, in the famous Governors' Minute, three experienced administrators had expressed their doubts as to its soundness in language, which would bear repetition :—The Lieutenant-Governors of the United Provinces, Punjab and Burma and the Chief Commissioners of the Central Provinces and Assam said :—

> "The scheme exposes a large surface to legislative, administrative and financial friction. It breaks away from all experience and divides the Government against itself. It has all the elements which make for division at a time when there is most need for co-operation and association."

I do not wish it to be understood that I agree with all the views of these advocates of a unitary government. But their principal contention that a unitary system is preferable to one in which Government is divided into two halves, has my full adherence. This measure of agreement is not based on the theoretical proposition that Government, like sovereignty, must be one and indivisible. Nor is it founded on such intimate and first-hand personal knowledge and experience of the working of Dyarchy in the Provinces, as *ex*-Ministers, or Members of the Executive Council, may claim to possess. It derives from a businessman's practical preference for unity of direction as well as responsibility. In the present case the argument by analogy is particularly apt. Both business and government draw their sustenance from finance

A business prospers best when the application of the funds at its command is based on a united understanding and directed by a united will to further a common object and discharge a common responsibility. None of these conditions is, or can be, satisfied, under a dyarchical form of Government. The members of Government under a dyarchical system have no community of tradition. The "reserved half" owes a responsibility to a body at Westminster. The "transferred half" is responsible to its provincial Legislative Council. And although theoretically provincial revenues constitute a common pool, the funds required for the departments administered by the Governor-in-Council are susceptible of little variation and the ministers have to be satisfied with a residuum, which, in the existing financial state of the country, is not susceptible of expansion. Even the perpetual exercise of the maximum good-will by the parties concerned, which the authors of the Montagu-Chelmsford Report seem to have hypothecated, cannot surmount the obstacle, and adapt the entire administrative programme to available financial resources; this is what a really united policy demands but divided responsibility renders it impossible. A concrete instance will help to illustrate the point. Recently the United Provinces Legislative Council recommended the abolition of the posts of Divisional Commissioners. A mixed Committee of officials and non-officials substantially supported the recommendation as a measure of retrenchment. But nothing has so far been done to give effect to the proposal since the posts are regarded as prizes for members of an all-India Service, of whose destinies, the Secretary of State for India is the sole guardian and arbiter. While this conflict of interests and authority lasts, there can be no real community of endeavour on the part of a provincial Government and no political contentment among the representatives of the people.

7. Another feature of Dyarchy, which has caused universal disappointment is the so-called separation of the respective responsibilities of the two "halves" of Government. In practice "separation" has been synonimous with "confusion." Such a result was inevitable since it is impossible for the average citizen to realise that the acts of government are not the manifestations of a common will, but the acts of two mutually independent entities. This was conclusively illustrated in 1921-22, when the repressive measures initiated by certain local governments to deal with the Non-co-operation movement brought odium on the Ministers, who had no part or lot in them, and, at least, in one province, led to the complete political eclipse of the party to which they belonged. I am referring to events in Bombay and the United Provinces.

8. Instances of such defects can, but need not be, multiplied. Enough has been said to bring out the two main objections to Dyarchy, *viz.*, that it seeks to divide the highly complex organism known as Government, which is one and indivisible, and to attempt a separation of responsibility, which none but the high-priests of political theory can comprehend. Who can wonder that this complicated invention of political ingenuity has few admirers?

9. It has been argued that Dyarchy has not been tried long enough. The answer is that time cannot make the unworkable, workable. To my mind the sooner we replace dual by unitary Government, the better, and the change must take the form of complete ministerial responsibility in Provinces rather than a reversion to the old-time autocracy.

10. So far as I am aware such an advance has been opposed on the grounds :—

(*i*) that the electorates are neither sufficiently numerous to make such a system truly representative, nor possessed of the requisite modicum of political judgment to enforce responsibility.

(*ii*) that communal jealousies which may easily kindle into violent conflict render the "transfer" of Law and Order unthinkable, and

(*iii*) that in a land of strong social prejudices, democratic form of Government will perpetuate the ascendancy of the higher castes.

These arguments may be dealt with seriatim. As regards,

(1) I feel that though the present electorates are small, they are capable of expansion provided that, capacity to appreciate one's immediate interests rather than literacy is made the criterion of eligibility. Both in the rural and industrial urban areas the matter deserves careful exploration. The smaller Indian agriculturist, no less than the industrial workman, has a good measure of common-sense and should make a good elector. Even the literacy test should ultimately prove no barrier to an increase in the number of voters. The present comparatively slow and halting programme of educational advance can only make its influence felt after years and we cannot look to this factor alone for any rapid change in the strength of the electorate.

(2) The second objection is by far the most important. On the one hand it would be idle to deny the existence of communal differences. On the other hand it would be equally idle to contend that complete responsibility in the Provinces can devolve on the elected representatives of the people only when such differences have been completely eliminated. No one familiar with the history of civilisation can seriously prophecy that a consummation will be reached within a period of time which we need now take into consideration. The wiser alternative is not to postpone constitutional reform till the dawn of the millenium, but to devise machinery which would reduce communal friction to a minimum and to accelerate the pace of reform in the faith that such machinery would function satisfactorily. Hitherto the method of conciliation and discussion between the leaders of communities has not received the attention that it merits. It is the surest and most satisfactory preventive, but, to be effective, it requires elaboration and statutory sanction. Discussions on the eve of conflict, whether originating from the initiative of an official of Government, or of non-officials are in the nature of forlorn hopes. They can seldom avert the evil. What is required is the constitution of advisory committees, or, if the term be preferred, of conciliation boards, at all district and divisional headquarters, whose duty it will be to work in close co-operation with the local authorities to avert outbreaks of com-

munal passion. Such regularised and continuous consultation should promote between the leaders a spirit of complete concord, which mere fitful association can never secure. Its recognition by Government as a normal and obligatory administrative expedient should invest the deliberation of these bodies with an authority which they cannot otherwise acquire or enjoy. The exact composition of such committees, their powers and their functions are questions for *ad hoc* investigation. The broad principle seems to be however unexceptionable.

11. The last objection appears to me to possess considerably less force. Prejudices should disappear as education and the spirit of social reform make headway. Nevertheless to allay alarm and suspicion, I would not hesitate to prescribe that no legislation which is likely to affect the interests of a community or a backward class adversely should be passed unless it is supported by a three-fourths majority of the local Council. As an alternative I would suggest the creation of separate special institutions in the sphere of local Governments, adapted to the standards and needs of such classes, so that they may develop in their own way till they are fit to come into line with the more advanced communities. Such differentiation can carry with it no mark of inferiority, but will be a recognition of existing facts. In the last resort it will be a surer method of expediting the uplift of these classes than a rigid insistence on a purely illusory equality.

12. To this portion of the memorandum which is primarily concerned with the Provincial Governments, I should like to add a brief epilogue. Uniformity in political reform is a laudable ideal, but may not always be attainable. The argument for provincial autonomy is based on general considerations. It does not take account of local circumstances, which must, in practice, profoundly influence the settlement of the measure of advance, that may safely be conceded to a particular province. In certain quarters, such divergencies provide a conclusive argument in favour of a policy of sheer inertia. Such a faith is wholly alien to imaginative statesmanship. Diversity of local conditions may justify an adjustment of the pace of progress to the capacity for advance, but it cannot justify uniform stagnation.

13. In paragraph 5 of this memorandum I have stated that the demand for the introduction of responsibility in the Central Government is unanimous. The opponents of this claim argue that the failure of Dyarchy in the Provinces is not calculated to reassure Parliament in England as to the wisdom of giving to Indians greater powers at the centre, that the British Army, which in the last resort is the bulwark of " law and order " in this country, cannot remain the plaything of political caprice, that while the Crown retains responsibility for the good government of India, power must rest in a body which is solely answerable to Parliament at Westminster. Another objection which looms large in the eyes of these critics is the difficulty of defining the relation of Native States with a democratised and Indianised Central Government. To the suggested solution that the Army and Political Relations should be excluded from the purview of Ministers of the Central Government, they give the seemingly triumphant rejoinder, that Dyarchy which is treated as an accursed

thing in the Provinces, cannot be hailed as a blessing for the central organism. This array of obstacles appears to be formidable, but can, I venture to think, be overcome.

14. It would be convenient to dispose off the more general objections first. The argument that the failure of Dyarchy in certain Provinces has engendered a spirit of scepticism and alarm in England is not sound. Indians cannot be blamed for refusal to co-operate in a regime which they frankly distrust. The only fair test of their capacity for government will be their ability to work a system which they willingly accept. Their discontent is a ground for a modification of the present system; not for its continuance.

15. Equally unsound, I think is the contention that the British Army cannot be expected to work in harmony with a Government, Indian in its personnel, sentiments and outlook. If India owes a loyalty to England, England also owes a duty to India. The strength of the Empire depends on the solidarity of its component parts. Unless there is a frank recognition of mutual obligations, co-operation becomes a mere will-o'-the-wisp. India did not hesitate to place her manhood at the service of the Empire during the late war. Can England hesitate to assist India in her defence whether in war or in peace? There is little that need be said on the subject of the responsibility of the British Parliament for the good government of India. The ultimate transfer of that responsibility to the people of this country is foreshadowed in the Preamble to the Government of India Act. That we want its transfer now while others think that such transfer would be premature, reflects no difference of ideals but a difference of details.

16. The first point requiring examination is the necessity for a change at the centre. This is bound up with the analysis of the shortcomings of the existing constitution which the terms of reference contemplate. I need not reiterate the psychological argument in favour of a change. The defects in the *Central Machinery* have not been touched on before. They are twofold.

Defects in the Central Government.

The first concerns the authority of the Central Legislature, especially the Legislative Assembly. Despite its slightly enhanced powers, as compared with the old Imperial Legislative Council, it is a deliberative body pure and simple. It can make recommendations to the Governor General-in-Council, but the fate of these recommendations does not lie in its hands. It can thwart the executive in various ways of which the rejection of the Budget last year was perhaps the most significant, but the veto of the Governor General can neutralise such tactics. In the Assembly this practical impotence induces a sense of irritation as well as irresponsibility. For the executive the existence of an opposition which is invariably in the majority, is a source of ever-lasting anxiety, embarrassment and humiliation. The system may, without exaggeration, be described as a perfect device for the promotion of permanent discord between the executive and the legislature. Good will may occasionally give its wheels a jerky turn, but for the most part the machine creaks and groans in its desperate endeavour to work.

17. It will doubtless be urged that the presence of Indian Members on the Executive Council of the Governor General should harmonise the policy of the

Government with the wishes of the unofficial majority. In fact this is seldom the case. The explanation is not far to seek. In any system of representative Government harmony between the Executive and the Legislature is not a matter of race, but of community of political ideals and purpose. Even if the Indian Members of the Government were drawn from the dominant party in the legislature, the different traditions and outlook of the other members, who, under the present arrangement are officials, will prevent the evolution of a policy, that may claim the allegiance of the majority. As it is, these unofficial members are chosen with little regard to party affiliations or political affinities. Their selection is governed by circumstances, which both individually and collectively are fortuitous,—the time at which a vacancy occurs, the personal predilections of the Governor General, the exigencie of communal feeling, etc. And since the tenure of such office is independent of the relations of its incumbents with the legislature, there is no real incentive to the cultivation of a sense of mutual loyalty or responsibility. Their presence, therefore, does not in any way alter the situation. The fundamental defect of the system consists of the absence of any real connecting link between the executive and the legislature. It can be remedied only by converting an irresponsible and irremovable council into a Cabinet responsible to and removable by the Legislature.

18. The objections to such a radical change have briefly been indicated. Two of them, *viz.*, those relating to the control of the army and the regulation of foreign and political relations require careful examination. I shall deal first with the army. It is clear that the peculiar frontier problem of India requires the maintenance of a strong and efficient army. It is equally clear that until Indians have been trained in far larger numbers in the science, and technique of defence, India must continue to employ British experts. No less important is the fact that so vital a subject as defence should be immune from the dangers of political partisanship and individual eccentricity. There is no reason, however, to think that effective safeguards against the deterioration of efficiency, are incompatible with the extension of the control of the legislature over the army. The Military Budget can be protected against capricious reduction by fixing an amount after full consideration of actual figures of past expenditure, and reasonable demands of the future, which should not be varied for five years and which should constitute a primary statutory charge on central revenues. The Legislature should be given a greater voice in, and opportunity for, securing deeper insight into the administration of the army by means of an Advisory Committee which should also possess certain financial powers in respect of the allocation of funds for particular items of expenditure within the fixed Budget. The Budget itself should be revised quinquennially by an independent committee. To ensure homogenity of composition in the ministry, a point which is dealt with in greater detail hereafter, and the pre-eminence of the civil power, the Commander-in-Chief should not have a seat in the Cabinet, but should be replaced by a Minister. The Commander-in-Chief would continue to be the head of the army and on all questions of military policy his opinion will carry the weight due to an official of his status and experience. Coordination in matters of defence between India and the

Army.

Empire should be secured by India, along with the rest of the Dominions, being given a place on the Committee of Imperial Defence in London.

19. In regard to foreign policy India should have the same privileges as are at present enjoyed by other self-governing Dominions, that is, she should be at liberty to negotiate and conclude treaties of a commercial and *quasi*-political character, which do not affect the other parts of the Empire, but in matters touching or calculated to raise broad issues of Imperial importance there should be full consultation between the component parts of the Empire in order to ensure complete unity of action and understanding.

Relations with Indian States.

20. The relations of British India with Indian States present a difficult problem. The tendency hitherto has been to look upon the peculiar relationship existing between the heads of these States and the British Crown as a permanent bar to closer co-operation between them and the Government of India except on a purely voluntary basis. The result is reflected in the diversity of the standard of administration in vogue in different States. The principle of non-intervention has been carried to limits which threaten to retard the economic and social evolution of India as a whole by leaving the pace of such evolution to be determined by a multitude of independent authorities. Whilst I am fully prepared to respect the autonomy of these Princes which is based on treaty rights, I feel strongly that instead of being encouraged to regard themselves as detached spectators of events in British India, they should be brought into the main current of our progress. In the pre-war constitution of Germany it was found possible to reconcile the dynastic suceptibilities and the individual needs of the States constituting the Empire, with the exigencies of a common Imperial policy, both as regards internal development and foreign affairs. The constitutional mechanism devised for the purpose was the Bundesrath. It should not be beyond the powers of constructive statesmanship to devise some such system in order to ensure continuous and effective co-operation between British India and that portion of it which is ruled by its own Princes.

Cabinet.

21. I shall now attempt to give some idea of the constitution of the Central Executive. Having condemned Dyarchy as unworkable in the Provinces, I cannot advocate that it should be introduced in the Government of India. That it is the reason why I have been at some pains to elaborate suggestions for altering the structure of the Army and the Foreign and Political Departments so as to adapt them to the requirements of a responsible cabinet. This body should, in future, not consist of members appointed at various periods for a term of five years, but should be formed by a chief minister selected by the Governor General from the dominant party in the Legislature after each election. The Cabinet would differ from similar bodies in other democratic countries, in that, it would not be liable to resign unless it is overthrown by a three-quarters majority of the Legislative Assembly or dismissed by the Governor General for reasons to be announced in an official proclamation. It would deliberate collectively on all matters concerning the Central Government not excluding foreign affairs or the army, but in regard to the last two its powers will be somewhat limited. Thus in the sphere of foreign affairs the Governor General will have

the power of veto, while in regard to the army, the Cabinet will not be competent to upset the financial settlement in vogue for the particular quinquennium. In all other matters the Governor General will be bound by its advice, unless he is prepared to dissolve the Assembly.

The Legislature.

22. The Assembly will be the main legislative organ for British India, though if the Bundesrath comes into being, I should leave the initiative of measures affecting Indian States to that Chamber. It will control finance and its decision on money bills will be final. In the event of a difference of opinion arising between the two Houses regarding any particular measure of legislation, there should be a joint session, and failing agreement, a measure should be in suspense for three years; after which it should become operative, if passed by a new Assembly even though it be rejected by the other House. To allay alarm on the part of minorities, it may be expedient to prescribe certain heads of legislation, any Bill relating to which, will not be taken as having been passed by the Assembly, unless it has the support of a three-fourths majority. This safe-guard combined with the delaying power proposed to be vested in the upper House should provide sufficient guarantee of stability and protection to all. One word about the composition of the Assembly. I should include no nominated official in it. At present their presence may be consistent with the fact that Government itself is partly official and wholly irremovable. Once it is replaced by a responsible Cabinet their presence will be both anomalous and unnecessary.

23. My faith in the three-quarters majority requires some explanation. I have adopted it because I feel that a measure which can command such a majority should normally reflect the wishes of the great bulk of the electorate. I have also advocated it because I consider certification by the Governor General to be a crude and embarrassing constitutional device. Apart from dragging his name into political controversy, it achieves little. There is no magical or mystical valve attaching to this particular fraction, but the provision, that certain things should not be done unless they are supported by a substantial majority of the legislature, seems to me to be essential.

24. These are the main outlines of my scheme The picture is in many respects incomplete, but that defect is deliberate. No one individual can evolve a constitution for India. The problem is too vast and complicated, the interests involved too wide and varied to permit of a ready and simple solution. It will require the prolonged and careful endeavour of a representative body of experts to produce the finished picture. But the task must be attempted in the interests of the solidarity of the Empire, no less than the contentment, progress and prosperity of the people of India.

BOMBAY;
The 2nd October 1924.

PURSHOTAMDAS THAKURDAS.

Memorandum by Sir Chimanlal Setalvad, ex-Member of the Executive Council, Bombay.

In judging of dyarchy and its working in the provinces, it is necessary to recall the circumstances existing at the time the new reforms were inaugurated. I am not one of those who consider that the scheme of dyarchy was bad in itself or impracticable. I venture to think that it was about the best solution for the transition period, and if it had been worked in the right spirit it could have yielded good results. It must be remembered that when the reforms were being considered and Mr. Montagu came out to India, in all the various demands that were put forward there were no elements of real responsibility. Even the schemes submitted by the Congress and the Moslem League suffered by this defect. I had the privilege in those days, along with some other friends, of several interviews and discussions with Mr. Montagu in Bombay and he was very emphatic and clear about the necessity of introducing the element of responsibility in the reform scheme. The courageous statesmanship and broad vision of the Montagu-Chelmsford report in deciding to introduce responsibility in the provinces cannot be over-estimated. The change from no responsibility to complete provincial responsibility was rightly considered to be a big jump into the unknown. The only alternative therefore was to introduce responsibility in certain departments of Government of national importance, and thus to train the electorates and people to responsible Government and then at a later stage after experience was gained, to introduce complete responsibility. It is an irony of fate that those who decided upon this course as the first step towards full responsible Government in India came to be abused by both sides. History however, would, I feel sure, record its verdict that they conscientiously arrived at a tolerably good solution of a very difficult problem.

2. Although when the scheme of reforms was announced, all parties considered it to be inadequate, they welcomed it as a substantial advance over the then existing state of things and showed their willingness to work it. At the Amritsar Congress in December, 1919, resolutions were passed welcoming the scheme and thanking Mr. Montagu at the instance of Mr. Gandhi against the opposition of Mr. Tilak. Other events had however happened and were happening which soon obscured the real position and upset the minds of people. The Rowlatt Act was introduced in January-February 1919 at the very time the Southborough Committees for the division of functions and determining the franchise, after touring the country, were considering their reports in Delhi. The Rowlatt Act had evoked universal opposition and the Indian members of the Imperial Legislative Council, both elected and nominated, and Hindus and Mahomedans were united in opposition to it. This obnoxious legislation was undertaken at a time when the services of India during the Great War had been warmly acknowledged by the British people and the Home Government had declared the policy of achieving responsible Government in India, the Montagu-Chelmsford report had been issued, and the Government of India Act was about to be enacted, and a popular central legislature was

soon to be established. Public opinion was so much flouted by Government that even a proposal to adjourn the consideration of the Bill to the September Session was refused.

3. Looking back upon these events, one cannot understand the infatuation and blindness of those then in authority, more especially when it is remembered that the Act was never applied to any single place in India. Whatever that may be, these events shook public confidence in the good faith and intentions of the British Government. Closely following on this came the unfortunate events in the Punjab in April, 1919. It is beyond controversy that under the Martial Law regime in those days, things were done which deeply wounded the self-respect and pride of Indians and those happenings were a disgrace to any civilised Government. When the facts came out at the public enquiry by the Hunter Committee, the inevitable result was a feeling of horror and resentment that destroyed all confidence in Government. The situation was made worse by the action of certain Europeans in this country inviting subscriptions for a purse to General Dyer and by the action of the House of Lords in trying to justify the Martial Law doings. The result was that people were not prepared to believe that the British Government under which such events had happened and were being approved by the House of Lords and a section at any rate of the British public, could be really sincere in conferring self-government on India and a feeling of despair seized upon certain sections of the people. This situation gave birth to the movements of non-co-operation, civil disobedience and boycott of Councils. An atmosphere was created whereby people became incapable of examining and taking the correct view of the merits of the new constitution and having lost confidence in the good intentions of Government did not care even to study or realise the possibilities of the new constitution.

4. The sober and level-headed people who, though not less patriotic than other people and no less resenting the actions of Government, understood the real implications of the advance made by the new constitution and were prepared to work it for all it was worth were branded as traitors to the country and weak-kneed people deluded by appearances. At the first elections that took place in November, 1920, a very small percentage of the electors exercised their franchise. Those people who got elected to the legislatures on that occasion therefore laboured under the great disadvantage that they had not behind them solid public opinion and support which ordinarily they would have received and Government on their side took full advantage of that fact on occasions. Moreover, the peculiar circumstances in which they came to the Councils made them very sensitive and anxious to shew that they were not only stern critics of Government but were prepared to oppose Government as much as possible.

5. The new constitution thus started in 1921 under very abnormal conditions. The real bearings of the constitution were largely missed. The elected people did not fully grasp the situation that they had the control of the administration of the transferred departments through the Ministers who were bound to follow the policy in the administration of those departments, the policy laid down by the majority of the Council supporting the Ministers. They failed to regard the Ministers as their instruments for carrying on the Executive Government in the transferred departments in accordance with the popular view. They treated the Ministers as soon as they accepted office as people had left their ranks and had become

part of the executive Government, and as such, people to be attacked and thwarted. This entire misconception of the situation is well illustrated by the fact that, when it was proposed to constitute an association of the elected members of the Bombay Council, with a view to discuss the policy to be adopted on various questions coming before the Council from time to time, it was promptly decided that the Ministers should not be admitted as members of that association. It was curiously forgotten that the Ministers could only carry on successfully if the majority of the members had confidence in them and they reflected the view of that majority and for that purpose it was essential that the Ministers should be in close association with the representatives of the people by whose support alone they could remain in office. The result was that, no party system grew up, and the Ministers not having an assured phalanx of members to support them, lost the influence and power they would otherwise have got not only in the administration of their own departments but also on the reserved side of Government.

6. Further, the financial stringency following the War accentuated the difficulties of the situation and the only remedy was both increased taxation and severe retrenchment. New taxation was calculated to make the Reforms and the Council unpopular and the necessity of retrenchment dashed all hopes of developing the transferred departments. The Bombay Legislative Council threw out the Bill for the levy of an Amusement Tax unless retrenchment was first undertaken, and it was only after Government agreed to a total cut of 60 lacs in the budget that they passed the Bill. Under all these circumstances the Ministers were placed in a very unenviable position. They had courageously taken up the great responsibility that lay on them because they were actuated by a sense of duty to assist in starting the country on the path of responsible Government but everything conspired to make the working of the new constitution far from smooth and successful which otherwise would have been the case.

7. The administration of the transferred departments according to the real spirit of the constitution was still more impeded by the way in which the transferred part of Government was treated in Bombay. The Montagu-Chelmsford report and the reports of the Joint Parliamentary Committee made it clear that :

(1) With regard to the transferred departments the responsibility was really to be placed in the hands of the Ministers and the Legislative Council and that the Governor was to be merely in the position of a constitutional head.

(2) That there was to be joint consideration and discussion on important matters between the reserved and transferred parts of Government so that the Governor and Members in administering the reserved departments might get the benefit of the popular view presented by the Ministers and the Ministers in the administration of the transferred departments might have the benefit of the administrative knowledge and experience of the Members, and

(3) That after such joint consideration and discussion the decision was to be taken by the votes only of the Members in the case of reserved subjects and of the Ministers in the case of transferred subjects.

8. The above principles were never carried out in Bombay. There never was any joint discussion or consideration by the two halves of Government with regard to any matter relating to the transferred departments and the Members never knew anything of what was being done by the Governor and Ministers in the transferred departments. There was never any meeting called except once in the beginning of 1921 of all the Ministers and any particular Minister never knew what was happening in the departments in charge of the other Ministers.

9. At meetings of the Governor and Members to consider questions arising in the reserved departments, the Ministers were for some time in 1921 not called in, but subsequently they were asked to be present and their opinions were invited, often with the prefatory remark that they were not concerned with the subject but if they cared to express their opinion they could do so. The whole thing was unreal so far as the Ministers were concerned, because the papers relating to the subjects under discussion were never circulated among the Ministers and it was impossible therefore for them to give any informed opinion or advice. Regarding some very important matters affecting both the reserved and transferred sides of the Government, the Ministers were never shown the papers and they were given no opportunity of recording their opinions because technically the subject was being dealt with on the reserved side. I will give instances if required. In one notable instance, the Ministers officially desired that they should be allowed to record their opinions and the same should be forwarded to the Government of India, but their request was refused on the ground that the reference by the Government of India had invited the opinion of the Governor in Council.

10. Further, the whole basis of the new constitution that the administration of the transferred departments was to vest in Ministers responsible to the Legislative Council was subverted. Instead of the Ministers being left untrammelled in the administration of the transferred departments, the Governor's interference being limited only to very exceptional occasion of fundamental differences in which case the Minister either resigns or is dismissed if he disagrees with the Governor's view, the Governor claimed that the Minister's function in law was merely to give him advice but that it was open to him not to accept it for any sufficient cause. This was a complete perversion of the intentions of the framers of the Government of India Act. The wording of Section 52, clause 3 being not clear in the way of carrying out those intentions made it possible for the Governor to put forward and insist upon his contention. The result was that, the Ministers were never sure of their ground and the Governor claimed more powers in the administration of the transferred departments than he had in the reserved. In the case of a reserved department, if the Member in charge and the Governor differed on any matter, the vote of the whole Council can be taken and the decision of the majority is binding on the Governor except in certain exceptional cases involving the safety and tranquillity of the Province. With no joint responsibility and no meetings of the Governor and Ministers to decide by their votes questions arising in transferred subjects, the only course left open to each individual Minister was to try to persuade the Governor to his view, and if he failed in that, in the last resort, to threaten to resign. It can be imagined how disheartening and unpleasant this must have been

to the Ministers and how it was calculated to impede smooth administration. I do not say that in practice the Ministers allowed themselves to be over-ruled by the Governor when any question of vital principle was concerned. The Ministers however had to struggle in order to have their own way. But by firmness and with the ultimate weapon of resignation in the background, they fairly succeeded in giving effect to their own policy in the administration. The position of the Ministers was further embarrassed by the control of the services being vested in the Secretary of State.

11. Further, the power to make rules and orders for the more convenient transaction of business in the Executive Council and with his Ministers given to the Governor under Section 49 (2) was so exercised as to attempt to concentrate power as far as possible in the Governor, both with regard to reserved subjects as well as transferred departments. Under the rules, the Secretary in any department had the power to submit a case directly to the Governor on the ground of urgency and importance and the Governor could dispose of the same without any reference to the Member or Minister merely informing him of the orders passed. The Secretary if he differed from the decision of the Member or Minister had power to submit the papers to the Governor. Some of the rules were *ultra vires* as running contrary to the basic principle of the Constitution. The Governor denied the right of a Member to require a meeting of the Executive Council to be called. According to him, a member could only ask for a meeting and it was for the Governor to call one or not. One of the rules provided that when a question was decided by a majority of the Council the majority was to decide whether in communicating the decision to the higher authorities the dissenting minutes if any of the minority were or were not to be forwarded, thus giving the power to the majority after having overruled the minority, to prevent the minority view from being submitted to the higher authority. I grant that in practice the dissenting minutes expressing the minority's view were not suppressed, but on every occasion it was by the forbearing decision of the majority that such minutes were allowed to be forwarded.

12. In the matter of appointments and postings the practice obtaining for many years was as follows:—The proposals were sent by the department concerned to the Private Secretary to the Governor who, if the Governor approved, circulated the proposals to the Members in the following form:—"I propose to make with the concurrence of my Honourable Colleagues the following appointments." Then the Members either concurred or expressed their view and the majority prevailed. In any case of great importance, if a Member wished a meeting of the Council to be called, the matter was considered in Council. The above procedure was suddenly altered and thereafter the circular merely stated, "I beg to inform my Honourable Colleagues that the following appointments are being made." Objection was taken to this alteration but Members were assured that it was not intended to deprive them of their voice in the matter. A little later, a step was taken which showed that the Governor was himself claiming the right to make appointments and was denying the rights of Members to take part in those decisions. The appointments in all reserved departments used always to be gazetted in the following form :—"The Governor in Council is pleased to appoint,

etc." One day, without any warning the form was altered as follows :— "The Governor of Bombay is pleased to appoint, etc." Even appointments and conferring of various powers expressly required by law to be made by the local Government or the Governor in Council were also gazetted in this new form. As soon as the change was noticed it was challenged and the old form of notification was restored but it was still claimed that the Governor had the power to make appointments and the form, *viz.*, "I beg to inform my Honourable Colleagues that following appointments are being made" was continued.

13. As I have said above, owing to the combination of various causes, dyarchy was not successful, although I must say that the Ministers in Bombay did their best and maintained their independence and did very useful work in the public interest and the Legislative Council also displayed considerable sense of responsibility and political sense and did themselves credit by various decisions of great benefit to the Province, *e.g.*, the Sukkur Barrage, the Compulsory Education Act, etc. In the popular mind, however, confidence in the good intentions of Government was shaken, and dyarchy stood condemned. In the central legislature, the last Legislative Assembly also did admirable work and had to their credit substantial achievements. They got discredited by the certification of the Salt Act which showed that the almost unanimous wish of the legislature and the people could be unceremoniously brushed aside. The result was that the hands of those who were hostile to the new constitution and who stood for wrecking it were much strengthened and they won an easy victory at the polls.

14. The question now is, what is to be done ? Is any advance in the constitution to be considered only at the end of 10 years as provided in the Statute, necessary alterations in the rules and regulations being made to remedy defects revealed by experience, or whether a revision of the Constitution should be taken in hand immediately ? As I have said, dyarchy was not a bad system in itself for the transition period and would have succeeded if it had been worked in the right spirit. It is no use saying now that we would remedy the defects shown and begin to work the system in the right spirit. It is misleading to say that party system is gradually being formed. The fact is that no healthy party spirit is growing or can grow under existing conditions. The parties that are formed are not parties based on differences of political or administrative ideas but purely on communal and sectional lines which would never help good popular Government. The time has gone by and it is impossible to make the people put faith in any assurances about working the Constitution in the right spirit. No system can work, much less a system like dyarchy, unless there is good-will towards it in the general community and there is mutual confidence on both sides. It is impossible now to create such good-will and to evoke real confidence. The policy of Government with regard to training Indians for and admission of Indian students in all branches of the military forces has evoked wide-spread disappointment and unless Government are prepared to take a real effective step which would within a reasonable period make Indians fit to defend their country, confidence in the good intentions of Government will not be established.

15. The only way to restore confidence and to ensure the smooth working of the Constitution is to take a courageous and bold step and to give provincial autonomy, in the beginning in the major provinces, making all subjects transferred and placing them in the hands of Ministers with joint responsibility. I am quite alive to the fact that the

standard of efficiency will for some time be lowered and possibly law and order will not be strictly upheld and maintained as it is essential they should be. The difficulties in that direction will be increased by the present accentuation of communal differences and by the general want of discipline and spirit of disobedience to law and authority created by the gospel of non-co-operation and civil disobedience. But an over-cautious policy and refusal to make an advance till after the expiry of the statutory period will create a worse state of things. As regards the lowering of efficiency and weakening of law and order, that is bound temporarily to be the result whenever you inaugurate full Provincial autonomy. Therefore, it is much better to take the step at once and emerge through that stage while the experienced and trained civil servants in the service at present are still with us and they could be relied upon to loyally assist in working the new constitution with as little dislocation as possible.

16. I would however desire various safe-guards to be provided for amongst others the following :—

(1) The services both European and Indian must be properly recruited and should be secured fixity of tenure, their salaries and pensions and fair treatment ; for that purpose, all necessary steps by means of establishment of civil service commission and necessary legislation should be taken.

(2) The vesting in the Governor of Provinces certain emergency powers for the maintenance of tranquillity in his province.

(3) The securing of the carrying out of large Schemes and financial commitments already sanctioned, *e.g.*, Sukkur Barrage in Sind, Development Scheme in Bombay.

The creation of a second chamber in the Provinces to revise any hasty decisions of the Legislative Council is also worth consideration.

17. Coming to the Central Government and Legislature, the position created by the present Constitution is very anomalous. There is the Legislative Assembly with an overwhelming opposition majority and the Executive Government is irremoveable and the opposition can never be called upon to shoulder the responsibility of office. Such a state of things cannot last and is bound to result in dead-locks and bitter feelings, nor is it calculated to cultivate a healthy sense of responsibility among the members of the Legislature. It can be urged with considerable force that if the Provinces are to be given complete Provincial autonomy, there should be a strong Central Government with a majority in the Legislature, but such a change is now unthinkable. It is impossible now to take a step backward and the only remedy is to go forward. It is necessary, therefore, to introduce responsibility in the Central Government by transferring certain heads of administration to Ministers appointed from among the elected Members of the Assembly. Foreign relations, defences of the country, the military departments and law and order may continue to be reserved subjects but the other Departments should be transferred.

In my view mere alterations and amendments in the rules and regulations under the Government of India Act will not meet the necessities of the situation. A consideration of the steps to be taken for making an advance on the lines indicated above should, I venture to think, be immediately undertaken.

Statement regarding Sir Chimanlal Setalvad's evidence presented by Sir Maurice Hayward on behalf of the Bombay Government.

Sir Chimanlal's evidence demands in the first instance an emphatic protest against his publication of his statement without previous reference to the written records of the Bombay Government. Sir Chimanlal seems to have overlooked the oath which he took on assuming the office of Member of Council which was in the following words " I will not directly or indirectly communicate to any person any matter which shall become known to me as a Member of the Executive Council except as may be required for the due discharge of my duty as such or as may be specially permitted by the Governor." The grave impropriety of communicating such a statement to a representative of the Associated Press seems to have entirely escaped him as likewise the serious prejudice to his former colleagues in the Bombay Government.

2. Sir Chimanlal opened his statement by the remark in paragraph 1 that " dyarchy was the best solution for the transition period " and proceeded to remark in paragraphs 2 to 6 on the political situation of the time which seemed to him from the start to prejudice a favourable trial of the scheme. The remarks however failed to take a sufficiently wide view of the situation. At the conference in November 1918 in Bombay it is true that the Reforms Scheme was welcomed by the moderate party. But the Congress of extremists rejected it in December 1918 at Delhi. The reasons therefore for its supposed failure lay deeper than the Revolutionary Movement Act known as the Rowlatt Act introduced in January-February of 1919 or the Punjab Martial Law of April 1919. Mr. Gandhi's Satyagrahi movement of 1919 merely indicated the lending of his support to the Congress extremists whose aim always had been an Autocracy of the Intelligence rather than the Democracy of the Reforms. Mr. Gandhi gave up Satyagraha after recognising his " Himalayan " mistake upon the 1919 disturbances in Gujerath. But he reopened it as non-co-operation in March 1920. It was accepted by the extreme party as a likely method of extracting by pressure something more than had been given by the Reforms, namely, something indicated by the vague expression " Swaraj." But it again proved a failure resulting in the riots of Malegaon and Dharwar and the " Swaraj " which " stank " in the nostrils of Mr. Gandhi in December 1921 in Bombay. The Chauri Chaura riots of February 1922 gave it a further blow and it was finally settled by the imprisonment of Mr. Gandhi in March 1922. The Reforms had in fact triumphed over non-co-operation and the Swarajists were forced to admit it towards the end of 1923 by themselves joining the Legislative Council.

3. Sir Chimanlal's complaint in the succeeding paragraphs 7 to 13 seems, broadly speaking, to have been that the Ministers were not given sufficient independence in their working of the transferred Departments. He had however already remarked " the elected people did not fully grasp the situation that they had the control of the administration of the transferred departments through the Ministers, and " the Ministers not

having an assured phalanx of Members to support them lost the influence and power they would otherwise have got not only in the administration of their own departments but also on the reserved side of Government." It should have been obvious to him from his own remarks that it would have been contrary to the spirit of the Reforms to have committed entire independence to Ministers who did not represent any real parties in the Legislative Council. He should have referred, if he had any doubt of it, to the words " In considering a Minister's advice and deciding whether or not there is sufficient cause in any case to dissent from his opinion, you shall have due regard to his relations with the Legislative Council " contained in clause 6 of the Instrument of Instructions to the Governor in explanation of the words " The Governor shall be guided by the advice of his Ministers unless he has sufficient cause to dissent from their opinion " contained in Section 52 (3) of the Government of India Act. He should have also referred to the words " Ministers who enjoy the confidence of a majority in the Legislative Council will be given the fullest opportunity of managing that field of Government which is entrusted to their care. In their work they will be assisted and guided by the Governor who will accept their advice and promote their policy whenever possible " contained in paragraph 5 of the Report of the Joint Select Committee of the Houses of Parliament, and he would hardly have committed himself to the subsequent inaccurate statement that the Governor's claim that the Minister's function in law is merely to give advice was a complete perversion of the intentions of the framers of the Government of India Act.

4. Sir Chimanlal also seems to have been under some misapprehension as to the ordinary methods of conducting business of an Executive Government. He complained in his cross-examination that there was no joint consideration as a rule of the questions arising from day to day in the administration of the transferred departments and he does not seem to have realized the practical difficulties of referring every matter, whether of great or little importance, to a joint discussion in Council. It has of course never been the practice to refer any matters but those of major importance including legislation for the joint consideration of an Executive Council. Sir Chimanlal's memory has moreover led him into error on the facts when he stated that there never was any joint discussion with regard to any matter relating to transferred departments. The records show that on no less than 71 occasions out of 95 such questions were discussed in Joint Council. He also seems to have been haunted by some hazy idea that after such general discussion the decision ought to have been taken by the votes of the Ministers. But the degree of responsibility *inter se* has never been laid down in respect of Ministers. It was stated that " Ministers may be expected to act in concert together ", and again that it would be well " ordinarily to allow Ministers to have their way fixing the responsibility upon them " in the Report of the Joint Select Committee, but, no provision was made for the formal recording of votes of Ministers. It was presumably intended that their responsibilities *inter se* should depend upon the general importance of the question as in other Cabinets. They were constituted " advisers " of the Governor and it would therefore have been inappropriate to provide for decisions by the formal recording of votes as in the Governor's Executive Council of which the constitution is entirely different under the Government of India Act. Sir Chimanlal has

therefore conveyed an entirely inaccurate impression by his statement. He has had to admit in cross-examination the inaccuracy as regards legislation, but there were many other subjects relating to transferred departments discussed at the joint meetings of Ministers and Members. Such discussions were for all intents and purposes joint meetings of Ministers. They had every opportunity of expressing freely their opinions. They also had the opportunity of listening to the opinions of the Executive Members, but the decisions depended in no instance on the votes of the Executive Members of Council. Sir Chimanlal's statement that Ministers were for some time in 1921 not called in to discuss reserved subjects with Members has to be read subject to the remark that this was the practice only for a few months while the regular practice was being settled under the Reforms. But thereafter weekly meetings were as is shown by the appended statement as a rule held at which both transferred and reserved subjects were discussed between Ministers and Members. Some times subjects no doubt were mentioned for which there had been no special reason to circulate the papers to Ministers. But this was not the general practice in important matters or in matters which particularly affected Ministers. Copies of the circular of O'Donnel instanced in cross-examination were in particular distributed and circulation of the subsequent papers effected. The circulation memorandum was signed by two out of the three Ministers. At these meetings reserved subjects of importance, such for instance as questions relating to law and order and the non-co-operation movement were besides reserved legislation discussed between Ministers and Members. Sir Chimanlal's statement has thus suffered much from omission of previous reference to the records and he has in fact himself contradicted the suggestion that diarchy was not worked in the right spirit when he stated at the end of paragraph 10 that the Ministers by firmness and with the ultimate weapon of resignation in the background fairly succeeded in giving effect to their own policy and did not allow themselves to be overruled upon any question of vital principle by the Governor, and again in paragraph 13 " Ministers in Bombay did their best and maintained their independence and did very useful work in the public interest, and the Legislative Council also displayed considerable sense of responsibility and political sense and did themselves credit by various decisions of great benefit to the Province." The fact is there were free and frequent discussions between Ministers and Members. Ministers were on no occasion overruled by the Governor and the working of the Reforms was nowhere more successful than in the Bombay Presidency.

5. Sir Chimanlal has complained in some detail about the working of the rules regarding the business both of the transferred and reserved sides of the Executive Government. Sir Chimanlal has, it seems, here again been labouring under misapprehension as to the ordinary methods of disposing of the general and routine business of an Executive Government. It would of course be impracticable to have every matter small or great decided by the joint board of Ministers and Members. There must be some division of labour to make it practicable to get through the daily work of the Government. The Governor is obviously the person to call Council Meetings and to distribute the work as the Head both of the transferred and reserved sides of the Government. It is his duty moreover to keep himself informed of all important matters, more especially as emergency powers are specially vested in him. Secretaries have therefore been

authorized under the rules of business to submit cases of special importance and urgency direct to the Governor and it was an improper and wholly untrue suggestion to make that the rule, which was no new rule, was specially made for the purpose of overruling Ministers and Members. Sir Chimanlal has also been under misapprehension as to the rule regarding dissenting minutes. It was not made for the purpose of preventing the minority from submitting its views to higher authority but for the purpose of informing the majority of the nature of the minutes proposed to be sent by the minority of the Executive Council. Sir Chimanlal has also not realized the reasons for the modification of the form of nomination paper. The Governor has reserved to himself the nomination and posting of officers to superior posts, which have been scheduled in the rules, after consulting the Minister concerned or the Executive Member. The Governor as Head of the Administration has necessarily special opportunities of judging of the appropriateness of particular officers for particular superior posts in the various departments. He has moreover been vested with special responsibilities in regard to the public services and for many years the power of initiation in these matters has been exercised by him. The old form of intimating his proposals did not result in inconvenience when there were only two Members of Council, but it was found in practice to result in delay and difficulties of a practical nature due to minuting and reminuting with the increased number of four Members. The concurrence having been obtained of the particular Member, the form of intimating the proposals was therefore modified to the form of merely giving information to the remaining Members. The change in the form of public notification from " the Governor in Council " to " the Governor of Bombay " was not ordered by the Governor, but was the result of misinterpretation of the orders in the Secretariat. It is particularly unfortunate that misleading remarks of this nature should have been made in a document offered to the public without previous verification by reference to the Government of Bombay.

6. Sir Chimanlal has dealt in paragraphs 14 to the end with his recommendations for the future and in cross-examination has expressed the view that an immediate advance to provincial autonomy might safely be made in the Bombay Presidency. It is hardly necessary to deal in detail with these, more especially as they include recommendations with regard to the Central Government. It is sufficient to observe that the view last mentioned would support the opinion that no small measure of progress in the Reforms had been secured by the Bombay Presidency.

M. H. W. HAYWARD.

The 17th November 1924.

Statement of meetings of Honourable Members of Council and of Ministers from 24th January 1921 to December 1923.

Date.	Executive Council.	Ministers.	Joint Council.	Subjects. R. = Reserved. T. = Transferred
1	2	3.	4	5
24-1-1921	..	1	..	T.
1-2-1921	1	..	..	R.
19-2-1921	1	..	..	R.
16-3-1921	1	..	..	R.
3-5-1921	1	..	..	R.
12-5-1921	1	..	..	R.
13-5-1921	1	..	..	R.
13-6-1921	1	..	..	R.
16-6-1921	1	..	..	R.
20-6-1921	1	..	..	R.
28-6-1921	..	..	1	R. & T
12-7-1921	..	..	1	R.
12-7-1921	..	..	1	R. &
18-7-1921	1	..	..	R.
19-7-1921	..	..	1	R. & T.
23-7-1921	1	..	..	R.
23-7-1921	..	..	1	R. & T.
27-7-1921	1	..	..	R.
30-7-1921	1	..	..	R.
8-8-1921	1	..	..	R.
13-8-1921	..	..	1	R.
20-8-1921	1	..	..	R.
29-8-1921	1	..	..	R.
12-9-1921	1	..	..	R.
15-9-1921	..	..	1	R. & T.
20-9-1921	1	..	..	R.
25-9-1921	..	..	1	R. & T.
3-10-1921	..	..	1	R.
7-11-1921	1	..	..	R.
9-11-1921	..	..	1	R. & T.
15-11-1921	1	..	..	R.
28-11-1921	1	..	..	R.
29-11-1921	..	..	1	T.
5-12-1921	..	..	1	T.
6-12-1921	..	..	1	R. & T.
12-12-1921	1	..	..	R.
20-12-1921	..	..	1	R.
23-12-1921	..	..	1	R. & T.
3-1-1922	..	..	1	R.
17-1-1922	..	..	1	R.
24-1-1922	..	..	1	R.
11-2-1922	..	..	1	R. & T.
21-2-1922	..	..	1	R.

Date.	Executive Council.	Ministers.	Joint Council.	Subjects. R.=Reserved. T.=Transferred.
1			4	5
3-3-1922	..	..	1	T.
7-3-1922	..	..	1	R. & T.
28-3-1922	..	..	1	R.
1-4-1922	1	..	..	R.
29-5-1922	..	..	1	T.
10-6-1922	1	..	..	R.
12-6-1922	..	..	1	R. & T.
19-6-1922	..	..	1	R. & T.
26-6-1922	..	..	1	R. & T.
3-7-1922	..	..	1	R. & T.
10-7-1922	..	..	1	R. & T.
17-7-1922	..	..	1	T. & R.
20-7-1922	..	..	1	T. & R.
24-7-1922	..	..	1	T.
7-8-1922	..	..	1	T.
14-8-1922	..	..	1	R. & T.
21-8-1922	..	..	1	R. & T.
23-8-1922	..	..	1	T.
28-8-1922	..	..	1	R. & T.
29-8-1922	..	..	1	R. & T.
1-9-1922	..	..	1	R.
5-9-1922	..	..	1	R. & T.
11-9-1922	..	..	1	R. & T.
12-9-1922	..	..	1	R.
14-9-1922	..	..	1	R.
27-9-1922	..	..	1	R. & T.
2-10-1922	..	..	1	R. & T.
9-10-1922	..	..	1	R.
23-10-1922	..	..	1	R. & T.
28-10-1922	..	..	1	R. & T.
30-10-1922	..	..	1	R. & T.
2-11-1922	..	..	1	R. & T.
4-11-1922	..	..	1	R. & T.
13-11-1922	..	..	1	R.
21-11-1922	..	..	1	R. & T.
23-11-1922	..	..	1	R.
7-12-1922	..	..	1	R.
11-12-1922	..	..	1	R. & T.
16-12-1922	..	..	1	T.
18-12-1922	..	..	1	T. & R.
19-12-1922	..	..	1	R. & T.
20-12-1922	..	..	1	R. & T.
11-1-1923	..	..	1	R. & T.
18-1-1923	..	..	1	R. & T.
20-1-1923	1	..	..	R.
29-1-1923	..	..	1	R. & T.
31-1-1923	..	..	1	R. & T.
5-2-1923	..	..	1	R. & T.

Date.	Executive Council.	Ministers/	Joint Council.	Subjects. R.=Reserved. T.=Transferred.
1	2	3	4	5
12-2-1923	..	..	1	R. & T.
14-2-1923	..	..	1	R. & T.
5-3-1923	..	..	1	T. & R.
12-3-1923	..	..	1	R. & T.
2-4-1923	..	..	1	R. & T.
16-4-1923	..	..	1	R. & T.
23-4-1923	..	..	1	R. & T.
7-5-1923	..	..	1	R.
19-5-1923	..	..	1	R.
4-6-1923	..	..	1	R. & T.
18-6-1923	..	..	1	R. & T.
25-6-1923	..	..	1	R.
2-7-1923	..	..	1	T. & R.
9-7-1923	..	..	1	R. & T.
16-7-1923	..	..	1	R. & T.
23-7-1923	..	..	1	R. & T.
7-8-1923	..	..	1	R.
13-8-1923	1	..	..	R.
20-8-1923	..	..	1	R. & T.
27-8-1923	..	..	1	R.
3-9-1923	..	..	1	R.
10-9-1923	..	..	1	R.
1-10-1923	..	..	1	R.
4-10-1923	1	..	..	R.
9-11-1923	..	..	1	R. & T.
10-11-1923	..	..	1	R. & T.
19-11-1923	..	..	1	R. & T.
23-11-1923	..	..	1	R. & T.
26-11-1923	..	..	1	R. & T.
7-12-1923	..	..	1	R. & T.
17-12-1923	1	..	..	R.
21-12-1923	..	..	1	R. & T.
21-12-1923	..	..	1	R. & T.
31-12-1923	1	..	..	R.

Memorandum submitted by Mr. A. N. Surve, M.L.C., (Bombay City North—representing the Maratha and the allied castes).

Under the Bombay Electoral Rules (Bombay Govt. Notification L. D. no. 1183 / 16-6-23, Schedule I) seven seats are reserved for the Maratha and the allied castes.

On the pleas that Communal Representation is detrimental to the Consciousness of National spirit, and it encourages attempts to advance selfish interests of particular communities some urge that it should be done away with.

In a country where the population is homogeneous, literate, and unselfish, Communal representation would be not only unnecessary but indefensible ; but in India, and especially in the Bombay Presidency, it is not only defensible but wholly and imperatively necessary.

The population is not homogeneous but is divided into innumerable classes according to religions, castes and creeds, *e.g.*, Hindus, Mohomedans, Christians, and Parsis. The Hindus are further subdivided into Brahmans and Non-Brahmans. The latter are again further subdivided into the Marathas and the allied castes, Jains, Lingayats and others. Owing to the well-known educational backwardness of these classes and their consequent subjection to the influence of the Advanced Communities, and owing to their poverty, indebtedness and individual and communal rivalries and jealousies, these classes though they form the bulk of the masses are unable to return their candidates to the Legislative Council in open elections. Government of India recognizing these facts have accepted the principle of Communal Representation in cases of the Mohomedans and the Maratha and the Allied castes. The results of two elections have amply proved that unless protection is given to these classes they will have no chance of representation and of safeguarding their special interests, *e.g.*, educational facilities, admission into the public services, removal of agricultural, irrigational and other grievances. In support of the above statement I cite the result of the Bombay city south-urban-Non-Mohomedan Constituency—Reserved. At both the elections it was conclusively shown that a member of the Hindu Backward Communities would not have been returned in the absence of reservation of seat. (Exact figures of votes polled will be sent later as a supplement to this memorandum).

Reservation of seats further leads to healthy rivalry between these different classes to come forward as candidates. I cite the instance of the Thana District in support of the above statement. At the first election owing to the backwardness and want of confidence no candidate came forward for the Reserved seat, therefore it went to a member of the Advanced Communities. But the result of the first election, coupled with the reservation of the seat has emboldened one candidate to come forward at the second election and he has been returned unopposed.

Reservation of seats further leads to healthy rivalry between different castes. In Bombay city, at the first election, there were two candidates belonging to the same caste—Bhandari—but at the second election a

Maratha candidate also came forward, and it is to be specially noted that a Christian calling himself a "Kunbi" not only claimed the Reserved seat, but his claim being disallowed by the Returning Officer, he filed an election petition, but subsequently withdrew his contention. This instance strikingly proves, how members of the Advanced Communities try to appropriate what has been given to the Backward Communities, with a view to create a consciousness in them of their political rights and to teach them to safeguard their own interests.

Safeguarding of the interests of the masses vicariously is not possible is clearly demonstrated by the Nomination of a Representative of Labour. In the first Council a member who did not belong to the labouring classes was nominated to represent them by the Government but with the experience they got, they have realised the wisdom of nominating a member to represent labour who belongs to those classes.

Those whose interests are adversely affected by our presence in the Council raise the following objections against us :—

(1) Communal Representation creates a split and is a hindrance to the growth of the spirit of Nationality.

(2) The representatives belonging to the Backward Communities are narrow-minded and they oppose the measures brought forward by the members of the Advanced Communities, and thereby the working of the Council is rendered difficult.

The answer to these objections is as follows :—

As to the Split.—The members who urge this objection are not dealing fairly with the masses. They obtain privileges in the name of the masses but enjoy them themselves and do not allow the masses to participate in them. Had they dealt fairly with the masses the illiteracy and backwardness that is evident through the length and breadth of the Presidency would have become conspicuous by its absence several generations ago. In the local bodies—municipalities and local boards—representatives belonging to the masses would have predominated. But that millenium is far distant yet. The members of one favoured community—Brahmans in Central and Southern Divisions—would not be enjoying the lion's share in the Public Services and the local bodies. For these reasons the objection raised is unreal and insincere. If an apparent split is noticeable it is the reaction of the greed of the Advanced Communities. They had so long suppressed the legitimate aspirations and ignored the just claims of the Backward Communities that if the latter revolt against the continuance of the old order of things, there is nothing to wonder at. It is a natural result of the progress. The moment the masses obtain their just due the apparent split would disappear.

As to the Spirit of Nationality.—A nation is composed of members who are inspired with the ideas of justice and equality. Where one class tries to keep down another the hope of forming One Nation would prove a Mirage. This is a land of castes and creeds and unless we follow the doctrine of Live and Let Live we shall never reach the stage of equality. We must therefore learn to respect the just rights of others and cheerfully submit to them. Unless the Hindus try to realise the just grievances of the Mohomedans and try to meet their legitimate demands ungrudgingly, and on the other hand unless the Mohomedans consent not to ask in excess of their just rights, the two sections of the public will remain

divided and the idea of one united nation will remain unrealised. The stage of One Nation is far distant and till it is reached every section must be left to work out its own salvation. The phrase "One Nation" is at present unmeaning and unreal. Therefore it should not be suffered to hamper the working of the Self Amelioration of the Backward Communities.

As to Narrow-mindedness.—The charge is false.—On all broad questions of general welfare the members of the Backward Communities have co-operated whole-heartedly with the members of the Advanced Communities. If opposing the selfish interests of the Advanced Communities is Narrow Mindedness, we plead guilty to the charge.

The results already achieved by the members occupying the seats reserved for the Maratha and the Allied Castes, justifies their continuance. I mention only a few of their achievements. In the absence of reservation students of the Backward Communities were shut out from educational institutions. By persistent efforts we have succeeded in convincing Government about the justice of our demand and they have willingly made provision to reserve admission for our students. Similarly they have made provision for reserving admission into the public services for our candidates. With these two privileges which we have won we can work out our salvation and come in a line with the advanced classes, and thus the barrier that divides us into two watertight compartments will be removed.

For these reasons it is necessary that the Communal Representation and Reservation of seats in favour of Hindu Backward Classes must be maintained for some time to come and the number of seats to be allotted to them must be increased.

The other point I would like to touch is about the decision of the subjects into Reserved and Transferred Departments. I am of opinion that all the departments except Police and Finance should become transferred. My reasons for the suggestion are as follows :—

In the existing state of affairs in which one class is in conflict with the other, Police Administration—if made a Transferred subject there is a danger of its being misused by the party in power against the other which is out of it. Finance should remain a reserved subject because it is necessary to do so in order to carry on Government in orderly fashion. Other subjects do not contain any politics in them and may be transferred to popular control.

As I favour reservation of Police and Finance Departments, I do not consider that the time has arrived when full Provincial Autonomy should be granted.

A. N. SURVE,
B.A., LL.B.,
Advocate.

COUNCIL HALL,
Poona, 30th July 1924.

SUPPLEMENTARY MEMORANDUM SUBMITTED BY MR. A. N. SURVE, M.L.C., BOMBAY CITY NORTH (RESERVED).

RESULT OF 1920.

1. Bombay City North—
   - D. S. S. Batliwala .. .. .. 1223 Open seat.
   - Mr. A. N. Surve .. .. .. 692 Reserved seat.
   - Mr. S. K. Bole .. .. .. 490 Open seat.
2. Thana and Suburban—
   - No candidate for reserved seat.
3. Ahmednagar District—
   - Mr. J. A. Pawar .. .. .. 2828 Reserved seat.
   - Rao Bahadur G. K. Chitale .. 686 Open seat.
4. Nasik District—
   - Mr. K. B. Nimbalkar .. .. 2359 Reserved seat.
   - Mr. H. N. Sindore .. .. .. 773 Open seat.
5. Poona District—
   - Mr. G. M. Kalbhor .. .. .. 235 Reserved seat.
   - Diwan Bahadur R. R. Godbole .. 338 Open seat.
6. Ratnagiri District—
   - Mr. D. A. Vichare .. .. .. 1814 Reserved seat.
   - R. S. L. V. Parulekar .. .. 79 (?) Open seat.
7. Sholapur District—
   - Mr. S. P. Ligade .. .. .. 480 Reserved seat.

RESULTS OF 1923.

1. Bombay City North—
   - Mr. J. K. Mehta .. .. .. 5868 Open Seat. (Election set aside).
   - Mr. Punjabhai Thackersey .. .. 4837 Open seat.
   - Mr. Joseph Baptista .. .. 3805 Open seat.
   - Mr. A. N. Surve .. .. .. 1433 Reserved seat.
2. Thana and Suburban—
   - Mr. S. J. Zunzrar Rao .. .. (Uncontested) Reserved seat.
3. Ahmednagar District—
   - Mr. N. E. Navle .. .. .. (Contested) Do.
   - Mr. C M. Saptarshi .. .. .. (Gets 1208 votes more than Mr. Navle).

Nasik District—
- Mr R. D. Shinde .. .. .. (Uncontested) Reserved seat.

5. Poona District—
   Mr. Gunjal, N. G. .. .. .. (Gets 2463 votes more than Mr. Kalbhor) Reserved seat.
   Mr. G. M. Kalbhor .. .. Maharatha open seat.
6. Ratnagiri District—
   Mr. V. A. Surve .. .. .. (Contested) Reserved seat.
   Mr. B. R. Nanal .. .. .. (3010 more) Open seat.
7. Kolaba District—
   Mr. M. B. Pawar .. .. .. (Contested) Reserved seat.

In addition to the Reserved Constituencies Maratha candidates contested the following constituencies in 1920 :—

1. *Poona City*—
   Mr. V. R. Shinde .. .. .. (Unsuccessful).
2. *East Khandesh*—
   Mr. A. S. Deshmukh .. .. (5570) topped the poll.
   Mr. G. R. Patil .. .. .. 1621 (Unsuccessful).
3. *Satara District*—
   Mr. P. N. Adhav .. .. .. 4430 topped the list.

RESULTS OF 1923.

1. *Bombay City South*—
   Mr. Y. K. Korgaokar .. .. (Unsuccessful).
2. *East Khandesh*—
   Mr. L. S. Chaudhari .. .. (Successful).
   Mr. D. R. Patil .. .. .. Do.
3. *Satara District*—
   Mr. B. V. Jadhao .. .. .. (Successful).

It is to be noted that in 1920 election Mr. R. B. Latthe and Mr. K. G. Bagde represented the Maratha and allied castes' interests in the Assembly.

In 1923, 2 candidates, Mr. K. G. Bagde and Mr. K. B. Nimbalkar both contested from Bombay Central Division, Non-Muhammedan Rural, but both were unsuccessful ; and at present there is no one in the Assembly who belongs to these classes to safeguard their interests.

Observations on some of the Sections of the Government of India Act, 1919.

Section 47:—The present number of Executive Councillors, *viz.* : 4, is the maximum laid down by the Act. Before the Reforms the Transferred as well as the Reserved Subjects were managed by 3 Executive Councillors, although there may be some increase in the work, 4 Executive Councillors and three Ministers are not necessary and there is room to curtail their number on economic grounds. This change could be effected without altering the Act.

Section 52, para. 3.—The Ministers are mere advisers under section 50, para. 1. The Governor is bound by the vote of majority of Executive Councillors except in questions affecting the safety, tranquillity or interests of his Province but, as the Ministers are treated as separate units, they can never have any opportunity of being in the majority and in deciding any question for the progress of Self-Government. It is necessary that the Ministers should be associated together and the Transferred Subjects should be administered on their Joint Responsibilities as the Reserved Subjects are administered under section 50, paragraph 1. Their joint advice to prevail in all matters excepting those relating to safety and tranquillity of the Province.

To give effect to this suggestion, the Act will have to be amended.

Under section 52, paragraph II, the Act gives the discretion to the Governor to appoint Council Secretaries from among the non-official Members of the Council. This provision of the Act is not brought into force. The object of the provision appears to be to give first hand knowledge of the inner working of the Government to the non-official Members but that object is defeated by not appointing Council Secretaries. Considering that financial stringency might be the cause, I had offered to be a Council Secretary *honorarily* but I was informed in reply that my proposed was "noted." This curt reply leads me to believe that stringency is not the reason for not appointing Council Secretaries from among the Members. If they are appointed, they will be instrumental in removing much of the opposition based on misunderstanding which arises on account of wrong or incomplete information.

Section 80B.—Lays down that a Minister shall not be deemed to be an official. Section 52, para. 3 states that the Governor shall be guided by the advice of the Ministers, unless he sees sufficient cause to dissent from their opinion. From these it appears that the Ministers have no power vested in them. It is desirable that the Ministers should be jointly responsible for all the Transferred Subjects as stated above in connection with observations on section 52.

Section 73D.—Para. 6.—Rules should be made by the Legislative Council subject to the assent of the Governor. *Paragraph 7* standing orders should not require assent by the Governor.

DEVOLUTION RULES UNDER SECTION 45 A.

Rule 15.—The Bombay Presidency justly claims a substantial share in the Income-Tax Revenue. This point is elaborated later on under the heading "Meston settlement".

Rule 30.—Proposals for borrowing money should be made subject to the sanction of the Council.

Rule 36.—Para. 32.

A Joint Secretary should be appointed in association with the Financial Secretary.

Rule 40.—All-India Services.

Compulsory retention in Provincial employment of men belonging to the All-India Services is a heavy drain on the Provincial Treasury and needs some satisfactory solution at an early date.

MESTON SETTLEMENT.

Rule 15.—(Devolution Rules) lays down that whenever the assessed income of any year subsequent to the year 1920-21 exceeds in any Governor's Province the assessed income of the year 1920-21 there shall be allocated to the Local Government of that Province an amount calculated at the rate of 3 pies in the rupee of the amount of such excess. The Government of India receives the largest revenue from the Bombay Presidency by way of Income-Tax amounting to over 8 crores per annum. In the Pre-Reform era this revenue was divided between the Central and Bombay Governments. Under the Meston settlement the whole of the Income-Tax Revenue has become a source of revenue to the Central Government, subject to the Provision of Devolution Rule 15 mentioned above.

The Bombay Presidency feels greatly aggrieved at this arrangement which deprives it of a revenue amounting to about 40 per cent. of its total revenue. Of all the Presidencies, Bombay loses most in this matter. Under the Meston Committee redistribution of the taxation resources of the Government of India and the Provinces, the agricultural provinces Madras, United Provinces, and the Punjab gained to the extent of 2¼, 1½, 1¼ crores, whereas the Industrial Bombay Presidency received only half a crore. Bombay has to spend large sums on industries by way of Factory Inspection, Labour Welfare, and in return of this outlay which Bombay could have obtained by way of a share of Income-Tax is wholly appropriated by the Government of India. Thus the Bombay Presidency is compelled to undergo expenses and to get nothing in return for them. Again, acting on the supposition, that the Income-Tax was to be shared by the Bombay Presidency with the Government of India out of self-interest, it developed that source of revenue to its utmost capacity but under the proviso, para. 2 of Devolution Rule no. 15, other Presidencies may have the opportunity of developing this source of revenue and of claiming their respective share out of the excess revenue from the Government of India but the Bombay Presidency is precluded from doing so. Thirdly, the Capital Commitments are very much vaster as compared with those of other provinces and it has to meet the Compounding Charges on these loans out of its current revenue. Besides, it has taken in hand free and compulsory Primary education which will demand large sums of money in the near future. Therefore, on principles of justice and expediency a share in the Income-Tax should be allocated to the Bombay Presidency.

A. N. SURVE,

Member, Legislative Council of the Bombay Presidency.

SIMLA ;

The 15th August 1924.

Memorandum by Mr. R. G. Pradhan, M.L.C., Bombay.

I beg to submit the following brief statement of my views on the subject matter of this enquiry.

It may be of use to recall certain facts at the outset. They are :—

(1) When the Montagu-Chelmsford Report on Indian constitutional Reforms was published a considerable body of opinion expressed itself against the system of dyarchy proposed to be introduced into provincial Governments as being unworkable and therefore certain to be a failure.

I was one of those who held that the inherent defects of dyarchy were bound to make it unsatisfactory and unworkable.

(2) The authors of the Report suggested that after five years' time from the first meeting of the Reformed Councils, the Government of India should hear applications from either the provincial Government or the provincial Council for the modification of the reserved and transferred lists of the province ; and that after considering the evidence laid before them they should recommend for the approval of the Secretary of State the transfer of such further subjects to the transferred list as they thought desirable. In other words, the possibility of transferring additional subjects to popular control before the expiry of the period of ten years was not excluded by the authors of the Joint Report.

(3) The non-official members of the Legislative Council of Bombay, meeting as a Committee to consider the question of reserved and transferred subjects in October 1918 urged that full responsible Government should be introduced in the Bombay Presidency from the very beginning. Among those members were Dr. R. P. Paranjpye, the Hon. Mr. C. V. Mehta and the Hon. Mr. P. C. Sethna.

Coming to the working itself of the Reforms, my view is that they have not been worked to the fullest extent even within their limitations. For instance in Bombay,

(1) Council Secretaries are not appointed.

(2) The Joint Financial Secretary is not appointed.

(3) Standing Committees are not appointed.

(4) The administration of the transferred Departments is not carried on, on the principle of joint responsibility.

(5) The first formula in the Montagu-Chelmsford Report (Regarding local self-government) has not been given full effect to.

(6) The Joint Parliamentary Committee recommended that an Education Board and a local Government Department should be created in each province. This recommendation has not been carried out.

Having shown that the reforms have not been worked out fully, I shall now proceed to consider what changes can be made consistently with the structure, policy and purpose of the Government of India Act.

The first important change that can be made and ought to be made is the amendment of the Devolution Rules regarding (1) transfer of subjects

(2) provincial contributions to the Indian Government and (3) control over public services.

With regard to (1), I would suggest that the schedule regarding transferred subjects should be so amended as to provide for the transfer of most, if not all, provincial subjects to popular control.

Incidentally, I might say that such transfer would, in all probability, lead to the co-operation of all parties with the Governments, in the legislatures in working the reforms.

With regard to (2), I wish to observe that one of the objects of the Reforms was to develop the nation-building departments, but that object has not been carried out owing to lack of funds. And there is no hope of that object being carried out, unless the provincial contributions to the Indian Government are substantially reduced. In the case of Bombay, moreover, the local Government ought to be given a share of the income-tax collected in the province.

With regard to (3) services with regard to transferred departments ought to be completely Indianized, and the Ministers should have full control over them.

The following things should also be done: *viz.*

(1) Appointment of Council Secretaries.
(2) Appointment of the Joint Financial Secretary.
(3) Appointment of Standing Committees.

The principle of reservation of seats for the Mahrattas and the allied castes should be abandoned.

Official members should be debarred from voting on questions relating to transferred departments.

The franchise should be so widened as to include those who possess a certain literary qualification, though they may not possess any property qualification.

With regard to the Central Government I am emphatically of opinion that the present constitution is open to the same objections as were raised against the Morley-Minto Reforms. The Legislative Assembly has an elective majority, but no responsibility. This must very often embarrass the Executive Government, but no remedy for this can be devised within the Act itself. The following changes may, however, be made:—

(1) The majority of members of the Executive Council should be Indians and most of them should be appointed from among the elected members.

They should regard themselves as responsible to the Legislature in practice though not in theory, and should resign in case of serious disagreement with the Legislature.

(2) The control of the Secretary of State should be released.
(3) Standing Committees should be appointed.

In conclusion, I wish to say that the scope of inquiry to be made by the Committee is extremely narrow, and what is wanted is the appointment of a Royal Commission to investigate the whole problem of further constitutional advance.

R. G. PRADHAN,
M.L.C.

LETTER FROM R. G. P[illegible]MAN, ESQ., B.A., LL.B., M.L.C., DATED NASIK, THE 14TH AUGUST 1924.

I beg to enclo[illegible]with a supplementary memorandum for the considera tion of the Comm[illegible]nd shall be obliged by your arranging to place copies of it before the Membe[illegible]the Committee, before I am orally examined on the [illegible]th instant.

I beg to submit the following supplementary memorandum for the consideration of the Reforms Enquiry Committee.

In my first memorandum, I have suggested only those changes which can be made under the Government of India Act itself, as it stands, or by amendment of the Rules thereunder, and concluded with the suggestion that, as the changes that could be made under the Act or by amending the rules might not meet the present political situation, the whole question of further constitutional reform should be thoroughly investigated by a Royal Commission.

I am thus in favour of the appointment of a Royal Commission: but this does not mean that no changes under the Act itself or by amending the rules should be made until the Commission has reported. The situation calls for every advance that can be made by action under the Act or by amendment of the rules, but such advance cannot meet it fully, particularly as regards the Central Government. Such advance as is required in the Central Government cannot be made except by amending the Act; hence, the necessity of a Royal Commission.

Then again my suggestion, that a Royal Commission should be appointed, is subject to the condition that the immediate appointment of a Royal Commission is feasible. If it is not feasible, the best course would be to explore every avenue of further reforms within the Act itself and the rules thereunder and to introduce them without delay. The reforms hitherto introduced in India are marked by two defects: (1) their inadequacy and (2) their belatedness, with the result that new factors have been introduced into the political situation in India, the result of which has been to aggravate it and make it more difficult and complex. I therefore feel strongly that no time should be lost in liberalizing the constitution to the fullest extent possible under the Act and the Rules.

The transfer of all provincial subjects to popular control cannot be effected except by amending the Act. But the requirement of the Act will be satisfied by a single subject being treated as reserved, and I see no objection to the transfer of all subjects except those mentioned in my first memorandum.

I would strongly urge the transfer to popular control of Land Revenue Administration, and of all Departments concerned with the maintenance of law and order. With regard to these latter Departments, I agree with the passage below contained in Mr. Barker's book on "The future of the Government of India and the I. C. S.":—

"The essential element in the scheme of provincial government suggested in the Montagu Report is a dichotomy between 'transferred' and 'reserved' subjects Dyarchy can only be instituted on the basis of such a dichotomy

It is important, therefore, to discover whether there is, or can be, any agreement about the basis of a division of subjects into 'transferred' and 'reserved.' We have seen that the actual division is to be made by a committee; but the Report contains a suggestion both of the proper basis of division and of the actual division which might be made. The suggested basis for transference is that the transferred departments should be—

(1) Those which afford most opportunity for local knowledge and social service;

(2) Those in which Indians have shown themselves to be keenly interested;

(3) Those in which mistakes, though serious, will not be irremediable;

(4) Those which stand most in need of development;

(5) Those which concern the interests of the classes who will be adequately represented in the Legislature, and not those which vitally affect the well-being of the masses who may not be adequately represented.

On this basis it is suggested that the transferred subjects might include education, public health, local government, industrial development, and certain departments of agriculture and forestry, but should not include the maintenance of law, order or matters connected with land revenue and tenancy right."

Both the basis of division and the actual division suggested have been vigorously criticized. I propose to state the lines of such criticism, as it is advanced in a Note written by an experienced civil servant,.... In the first place it is urged by the author of the Note that the maintenance of law and order, and matters connected with land revenue and tenancy right, *ought* to be transferred. "These departments," he argues," are administered under Government by the strongest and most able branch of all the services in India—the Indian Civil Service. The principles of their administration have long ago been laid down, and are well understood. The Service has great traditions behind it which will ensure that that compartment of the Government which is responsible for controlling their administration will get the best assistance and most outspoken advice..... It is admitted that the people of India are quiet and easily governed people, though occasionally liable to excitement over things affecting their caste or religion. The task of maintaining law and order is not therefore a very difficult one..... The argament that land revenue and tenancy questions affect the interest of the masses rather than of the classes who will be represented in the Legislature (and therefore, on the fifth of the canons mentioned above, should not be transferred) is absolutely inconsistent with the franchise and electorate scheme which has been put forward for this Province..... The convinced advocate of the compartmental system who is afraid to transfer some at any rate of the departments concerned with law and order and with revenue administration admits that he is afraid of his own scheme. I, though I am not an advocate of dyarchy, should not be afraid to make the experiment, because I should hope to find among the Ministers that common sense, goodwill, and forbearance which are essentail to the success of any scheme, dyarchical or not."

The inherent defects of dyarchy are such that it cannot be worked satisfactorily and afford a solution of the Indian Political problem.

The advocates of dyarchy have supported it mainly on the ground that it is postulated by the declaration of policy made in the House of Commons on 20th August 1917 and that therefore any other form of Government, though intrinsically better, is ruled out by the terms of that policy.

I however hold that the declaration of policy does not necessarily postulate dyarchy, though it does not exclude it.

But if dyarchy is the only form of Government permissible under the terms of the declaration, then it comes to this that a defective and unworkable system of Government must be accepted out of regard for the exigencies of a formula. This is a good illustration of "letter killing the spirit."

I hold that the terms of the declaration do not negative the establishment of full provincial responsible Government.

The inherent defects of dyarchy may be thus briefly stated :—

(1) Its basic ideas and implications run counter to human nature. Those ideas and implications are (*i*) the Indian people are unfit to manage even provincial affairs on the principle of responsibility, (*ii*) they must themselves believe that they are so unfit and (*iii*) they must, at every stage, satisfy Parliament that they have acquired the necessary fitness for being entrusted with further responsibility.

Now, no trouble would arise and dyarchy would be worked with a fair measure of success, if the Indian people would accept the estimate formed by the British Government and people, of their capacity for self-Government, and agree, without demur, to work the constitution with such limited, restricted and qualified responsibility as is entrusted to them. But apart from the question whether the estimate is true or not, it is against human nature to expect the Indian people to accept it. But without willing acceptance of it, on their part, dyarchy cannot be worked successfully.

(2) Government is an organic whole, and though a division of subjects into provincial and central and their administration of them on two different principles are feasible, the division of provincial subjects themselves into reserved and transferred, and the administration of them on two different and opposite principles are well nigh impracticable.

(3) Even as regards transferred subjects there cannot be full and genuine responsibility. It will necessarily be circumscribed by the consideration of securing to the official executive the power of protecting effectually its own functions, and to the Government of India of intervening in all cases in which the action of the non-official executive affects them to their serious prejudice.

In my criticism on dyarchy in reply to the Lionel Curtis's letter to the Hon. Mr. Bhupendra Nath Basu, I said :—"Self-government is not a matter which should be experimented with. You have to make up your mind as to whether or not the people have become fit for self government. You may

indeed hold that they have become fit for provincial self-government, but not for national self-government, or that they have not become fit for either. If you maintain the latter position, wait till you think that they have become fit and don't have self-government at all till then. But don't regard self-government as if it were some material object capable of being divided into parts and deal experimentally with it in patches. On the other hand, if you think that the people have become fit for provincial self-government, let it be introduced fully and unreservedly with firm faith in the capacity of the people to make it a success. The very conditions of the success of self-government include full trust in the people, their capacities and their virtues, and if you try to introduce self-government in parts with the lurking suspicion in your mind that they might not manage their affairs satisfactorily you already prepare the ground for its eventual failure. The Temple of self-government cannot be built in such a way. You can indeed build a Temple of self-government within a Temple of self-government. But each Temple must be built complete or not at all. You cannot have a Temple which is self-government in some parts and not self-government in other parts. Such a hybrid piece of construction must soon fall to pieces."

These views were expressed in 1916; time and the course of events have simply confirmed them.

These inherent defects of dyarchy have been aggravated by the position of the services under the Reforms Scheme and by financial stringency.

Central Government.

So far as I can see, there is not much scope for further constitutional advance in the Central Government within the Act itself or the rules. However the following changes may be made :—

(1) The majority of members of the Governor General's Executive Council should be Indians.

(2) They should be chosen from among a panel of ten members elected from among themselves by the elected members of the Legislative Assembly and the Council of State.

(3) They must resign in case a vote of 'no confidence' is passed against them by the Legislative Assembly.

(4) Rules framed under Section 19 A should provide that the control of the Secretary of State shall be limited to certain defined matters such as defence and foreign relations.

In all other matters, the Government of India should normally abide by the considered decision of the Legislative Assembly, and the Secretary of State should not interfere.

These can, however, be palliatives or temporary arrangements until the Act itself is amended. The problem itself cannot be solved except by the establishment of full or almost full responsible Government.

In this connection, I wish to make a few remarks on the point often made in the Press even by eminent publicists that the Indian constitution should be so framed as to suit the genius of the people.

There is some truth in it, but it is not the whole truth.

A people's genius is never perfect; it has merits or strong points, and it has also defects or weak points. A constitution must not be such as to perpetuate the defects or weak-points; on the contrary it should be such that while the good points will be perpetuated, it will ultimately lead to the elimination of the weak points.

Franchise.

I am in favour of widening the franchise. But I do not deem an extensive widening of the franchise as a condition precedent to full responsible Government.

Communal Representation.

The present arrangements about the communal representation of the Mahommedans and the Sikhs should not be upset. But I strongly condemn the tendency to introduce the communal principle into the constitution of local self-governing bodies or into public appointments.

The operation of the principle of the reservation of seats for the Mahratta and allied castes ought to cease automatically after some years, if it cannot be discontinued forthwith.

NASIK; (Sd.) R. G. PRADHAN,

The 14th August 1924. *M. L. C.*

Memorandum by Mr. P. R. Chikodi, Belgaum.

LETTER FROM—P. R. CHIKODI, ESQ., B.A., DATED BELGAUM, THE 15TH AUGUST 1924.

In continuation of my telegram of the 14th instant which gives in brief the memorandum of my evidence and which I hereby confirm, I am sending herewith the accompanying note of my written evidence for its submission before the Reforms Enquiry Committee. I am willing to be examined orally by the Committee, and any date after the 29th instant will suit me. I shall be obliged if you will kindly communicate by wire the date of my oral evidence.

MEMORANDUM.

I am the Secretary to the Non-Brahmin Unionist League. I was a member of the Bombay Legislative Council during the last triennium, and as such was a member of the Finance Committee, Public Accounts Committee, Retrenchment Committee, Primary Education Committee, etc. I am now member of the Belgaum City Municipality and President of the District Local Board, Belgaum. I am a journalist, being the editor and proprietor of the Anglo-Kanarese weekly "The Vibhakar".

At the Non-Brahmin Conference held at Belgaum on 31st May and 1st June 1924, I moved the following resolution:—

> "In view of the experience gained of the working of the Government of India Act, 1919, during the last 3 years, this Conference is of opinion that there exist many fundamental defects in this Act, and that a Royal Commission be at once appointed to examine these defects and to make recommendations for amending the Act at an early date. This Conference further records its opinion that it is highly inadvisable to wait till 1929, *i.e.*, till the completion of the statutory period, that the amendment of the Act is urgently necessary, and that it should be effected immediately."

This resolution was adopted unanimously.

My experience of the working of the Government of India Act is derived from the part played as a member of what is in England called 'Opposition' and is confined to Legislative Council. I considered the reforms as an adequate step in the gradual advancement of responsible government and honestly endeavoured to work them, but I have since found that the Legislative Council has got no real powers from the popular point of view. It can to a certain extent bring its influence to bear upon the actions of Government but it has failed largely in the matter of exercising control or of making Government give

effect to its policy or desire. This seems to me to be due mainly to the following defects :—

(*i*) Division of Provincial Government into two halves, *viz.*, Reserved and Transferred Departments ;

(*ii*) Absence of financial independence ;

(*iii*) The present faulty system by which Provincial Governments are made to pay their annual contributions to Government of India ;

(*iv*) Want of control over the recruitment, conditions of service, pay and allowances, and discipline and conduct of the Civil Services (including the I. C. S.) in India ;

(*v*) Communal or sectarian representation.

I consider these defects as obstacles in the way of attaining real forms of responsible government.

It is said that dyarchy is only intended for the transitional period with the object of supplying the training necessary for the enjoyment of full responsible government. But I believe that this experiment, although well-intentioned, has failed on account of its inherent defect. A government which is cleft asunder into two halves—one responsible to the people of one country and the other responsible to the people of another country is in my opinion opposed to all principles of responsible government. This feature has prevented the people or their voters or their candidates from adopting large policies on which popular or parliamentary parties are usually built. There has been thus no possibility of forming the parties which are essential for the establishment of a cabinet government. The present ministry lacks all the recognised principles that are necessary for the formation of cabinet. Besides, the method which is now adopted for appointing the ministers goes against bringing together into one party the various groups in the Legislative Council. I therefore think that dyarchy has naturally failed to give the training expected of it. The only way to give the real training is to grant full responsible government by doing away with the present system of reserved and transferred subjects. On account of this division of subjects there is no independence to expend the provincial revenues, nor is it possible for the Government as a whole to allocate the revenues for each department on their joint responsibility. Each province must have its own Consolidated Fund similar to that in England into which all the revenues should be pooled, and contributions to Central Government should generally be made on the basis of certain fixed percentages of its total revenues and on the principle that the needs of each province as determined by its Legislative Council should receive a prior consideration in the fixing of these percentages. In order that the provincial cabinet should be enabled to carry out its policy and programme which it has promised to its electors o people, there should be a complete financial independence. Each province shou d have its own Civil Services under the control of its government, their mnaner of recruitment and all the conditions of tenure being settled and embodied by legislative Acts. The conditions of tenure of the existing holders of office in all the Civil Services including the Indian Civil Service should also be secured

by special legislation. The charges on account of services along with some others should be included among the Consolidated Fund Charges so that there will be no necessity of subjecting them to the vote of the Legislative Council annually. I was one of those who, when the Montagu-Chelmsford Report was being considered, held that Communal representation was necessary in the elective bodies in the case of some communities. I now find that it is not necessary. The Lingayat Community was at first afraid that it would not be represented through general electorates, but now actual experience has shown that that Community can surely secure its due number of seats. Similar is the case of the Marathas. Certain number of seats are now reserved to secure their representation on the Legislative Council of Bombay. That this reservation is not at all necessary is proved by the fact that some Marathas have been returned through general electorates in addition to their number through reserved constituencies. So far as the Mahomedans are concerned, it is significant to note here the case of the Belgaum Municipality. They are represented on the Municipal Board in a larger nuamber than their due share as represented by the proportion which their numerical strength bears to the total population in the city. When the Bombay Government asked the Municipality in common with all other Municipalities to create a separate Mahomedan electorate, a resolution was adopted that such separate electorate was not necessary. This has been done with the full knowledge and concurrence of the Mahomedan members in the Municipality. I consider this instance valuable as shewing that electors care more for the work the candidates do for the general public than for their caste or religion. However, what is possible in the Belgaum City may not always be so in the rural districts, and if Mahomedans insist upon special representation, it may be given them on grounds of expediency for a period of, say, 10 or 15 years only, by reserving seats through general electorates and not through the creation of separate constituencies. No special representation is necessary in the case of any Hindu community or caste. There are some small communities which strongly desire to have representation following the example of the Marathas and Mahomedans. The desire is based upon communal or sectarian grounds and not because there are any special interests to be protected. The only remedy to put a stop to the feeling of this kind is to lower the franchise still more, to reduce the extent of the present constituencies by splitting them into a large number of small ones, and to increase considerably the number of members of the Legislative Councils. This will in my opinion enable the small communities to return their own candidates through the general constituencies. Apart from the reasons stated above, I think that communal electorates come in the way of the formation of the party system which is essential for Cabinet Government, as the candidates will be inclined to think more of their communal interests than matters of public interest or general policy. Hence I am against the formation of communal electorates.

P. R. CHIKODI.

Memorandum by Mr. B. G. Sapre, M.A., Life Member, Deccan Education Society, Poona. Professor of History, Wellingdon College, District Satara.

1. *Personal.*—I must begin by stating that I have no practical or first-hand experience of the difficulties to which the operation of the Government of India Act has given rise. But I have been following with some interest the various criticisms that have been made against the Reforms, and I am approaching the problem as a detached spectator and political theorist. Nor do I pretend to subject the text of the Act to any minute and critical examination such as a constitutional lawyer would delight in doing. Not that there are no ambiguities in the Act; but they have been pointed out, debated and authoritatively interpreted in the Local and Central Legislatures and they are known to the Committee. I take it that the ambiguities will be removed at the time of amendment. My object is to show that it is possible to devise a Scheme of Government which will admirably fit in with "the structure, policy and purpose" of the Government of India Act. I hope that my suggestions may not be found valueless.

2. *Introduction.*—One must carefully understand the point of view from which recommendations are to be made to the Committee if they are to be acceptable. The grafting of the plant of "Responsible Government" upon the trunk of Bureaucracy was undoubtedly an unprecedented experiment in State craft. By its very nature, therefore, it required anxious watching and constant adaptation to changing circumstances. At the time of launching that experiment Parliament thought that ten years would not be an unduly long period at the end of which to review the whole situation. But various causes combined to accelerate the march of events in India. (*a*) The hostility to the Reforms at first assumed the form of boycotting the Councils. They were not, therefore, thoroughly representative and could not be as efficient as they would otherwise have been. But they proved sufficiently powerful and the Non-co-operators were obliged to revise their policy. Many of them turned "Swarajists." They determined to contest the elections, though they were resolved upon "ending or mending" the Reforms *through* the Councils. (*b*) The necessity of appointing a Royal Commission to go into the grievances of the Public Services in India rendered inevitable an earlier re-opening of the larger constitutional issue. (*c*) Indian hopes and aspirations were quickened by the advent of the Labour Party to power. (*d*) The Reforms themselves did not achieve all these things that were expected of them. Their introduction synchronised with the transition of India, along with the rest of the world, to peace conditions. No wonder if many hardships *e.g.*, enhanced taxation due to rise in prices, disastrous experiments in regulating exchange, enormous increase in Military expenditure, which, in any case, were inseparable from such transition, were attributed to the new system of Government. (*e*) On account of financial stringency many Ministers could not do things which were nearest their heart, and their

inability was attributed to the Reformed Government. (*f*) Not only were the Councils less representative, but the Members, particularly those hailing from the rural districts, were not experienced in Council procedure, and they were not organised into parties. The only tie that held them together was the communal. One does not discern any deeper principle of party organization in the new Councils, except the incipient beginnings in that direction in some of the Councils, and in the Legislative Assembly. Nor did the electorates take continuous interest in the doings of their representatives. (*g*) Finally, the frequent exercise by the Governor General and the Governor of extraordinary powers of restoring grants and certifying legislation was held to demonstrate the hollowness of the Reforms.

Political agitation began to gather momentum and even those who had whole-heartedly accepted the Reforms in the beginning began to waver. Conferences were held and rival schemes adumbrated, and it was openly declared that no scheme of Reforms which did not immediately and directly proceed from the people would satisfy popular demand. A Resolution recommending to the Governor General the holding of a "Round Table Conference" with a view to preparing such a scheme was carried in the Assembly, and Government were thus obliged to declare their attitude with regard to the changing of the Constitution. This led to the appointment of the present Committee.

3. *Scope of the Inquiry.*—Government are at present not prepared to advise Parliament to make any radical change in the Constitution. I wish the scope of the inquiry was not thus narrowed; but the limitations must be accepted.

It might appear at first sight that the attempt to improve the Indian constitution without materially amending the Government of India Act was futile. But it is not so. The Act is a bare skeleton, and as Mr. Montagu explained in the House of Commons, important portions of the Constitution were left to be determined by Rules under the Act. The rules so made require Parliamentary confirmation and are as binding as the Act itself. Indeed the essence of the Reforms—the relaxation of Parliamentary control over the Government of India, devolution of greater authority on the Provincial Governments, and the introduction in them of "Dyarchy"—is contained in and defined by Rules. The complementary process of enlarging the Provincial and Central legislatures, making them more elective, and of extending their powers and functions is also defined by Rules, though to a less extent. Thus it is possible, by changing the Rules, to greatly modify the operation of the Reformed Constitution.

4. *Scope of Proposals.*—I do not think that any material changes are required in the *Constitution* of the present legislatures. They are sufficiently large and representative. As previously stated, people have yet to learn a great deal about Parliamentary institutions. Particularly they have to realize the responsibility of the franchise, and the necessity of voluntary associations for political purposes.

(*a*) *Communal representation.*—But in one respect the position must be reconsidered: I mean with regard to communal representation. The arguments urged against this measure have been justified; communal

tension has been intensified ; and the Councils have been handicapped by the presence therein of Members who hail from backward districts. It is certainly difficult to revoke a privilege once granted. Perhaps a better arrangement would be to elect the quota of communal members as now fixed from as wide a constituency as possible. This would, by enlarging the field of choice, improve the quality of the Members. Then alone can the members combine with their colleagues upon other than the communal basis. The whole experiment of Responsible Government would be a failure if this habit of co-operation and constant organization is not encouraged among them. The popular Ministers will have a well-knit following to support them and their advocacy of a measure would be more effective.

5. *The Provincial Executive* :—

Criticism of Dyarchy.—But if the Provincial legislature may continue unchanged, the provincial executive must be importantly modified.

Though the division of functions between " Central " and " Provincial " is satisfactory, that between " reserved " and " transferred " is not so. The reason is not far to seek. " Dyarchy " was essentially a transitional measure. By reserving important subjects the possible dangers of transferring power to inexperienced popular Ministers were minimised. But by unduly narrowing the Ministerial field Dyarchy has stultified itself. It has been condemned on other grounds also : it has made the administration top-heavy ; it has crippled the power of the Ministers in financial matters.

But the four years' experience of dyarchy has not been wasted. It has demonstrated, it seems to me, that in the transition to full Responsible Government the Governor will play a more decisive part than the juncture of an official executive with the popular executive. The less of such juncture we have the better for us. In fact there are two ways of attaining Responsible Government : (*a*) *Dyarchy*, with its process of the gradual, expansion of the transferred field ; (*b*) the gradual reduction of the Governor to the position of a " Constitutional figurehead " of the executive.

Proposed alternative.—It is time to adopt the second alternative. An arrangement like the following will be found convenient. Only those subjects in which the Governor and the Governor General are *vitally* interested, *e.g.*, Finance, maintenance of peace, etc., and in regard to which their responsibility to Parliament *cannot* be shifted, should be reserved. There should be only *two* members of the Executive Council—one official and the other non-official. The official should generally be a European. The Senior Executive Councillor should be called " Deputy Governor ". He should be in charge of the Finance Department.

Not more than three Ministers will be required in the larger Provinces ; two would suffice i the smaller ones. The Deputy Governor should preside at Meetings of the Executive Council and the Ministers. No final orders should be taken at this stage but as far as possible an agreement should be arrived at. The results of the deliberation should be placed before the Governor when both the Executive Councillors and the Ministers

are again present. The Governor should not generally interfere where the two halves of Government agree. In case of difference of opinion, the Governor's decision should be final if the matter referred to a "Reserved" subject and the Ministers should not press their objection. If the matter referred to a "transferred" subject (as most would be), the view of the Ministers should be allowed to prevail, unless the Governor is prepared to face all the consequences of a "Ministerial crisis."

Advantages.—In an arrangement of this kind all the good features of dyarchy have been retained: The vital questions are still in the hands of the Governor and the Executive Council; their responsibility to Parliament is not diminished; at the same time the Ministers have been given better scope for useful activity.

Further the drawback of dyarchy, *viz.*, the antagonism of the Councillors and Ministers will be greatly diminished; both will realize that they are members of *one* Executive; as the Senior Executive Councillor presides, the two halves will deliberate and discuss as equals and the administrative experience of the President will be invaluable to the Ministers. The "Joint Purse" will be a reality; the Governor will be kept away from the heat or preliminary discussion, and he will come to the solution of a difficulty as the custodian of the best Parliamentary traditions, and not as the Advocate of the Executive Council.

Collective Responsibility.—Certain other indirect advantages also should be noted here. This arrangement will contribute materially to the establishment of the principle of collective responsibility of Ministers. The phrase "The Governor acting with the Ministers" which occurs in the Act is ambiguous. It does not make clear whether the Governor is bound to consult the Ministers jointly or separately. Though joint deliberation was strongly recommended by the Parliamentary Committee it has not been consistently resorted to, with the result that in many Provinces the Ministers were treated little better than departmental heads. As such they were more or less in the hands of their Secretaries, who, on account of the traditional practice of personal access to the Governor, were able to further undermine their position. The Ministers will be a better force only if they combine. There is much wisdom in the Æsops' fable of the lion and the four bulls. Individually the position of a Minister is very weak as compared with that of an Executive Councillor. The latter has to satisfy one Master; but the Minister, in addition to his being probably inexperienced, has to look, Janus-like, to his colleagues, constituency, and Council on the one hand, and to the Governor on the other. I regard joint ministerial responsibility as an essential requisite of Responsible Government and this should be recognised, in an unambiguous manner, in the text of the Act itself.

Council Secretaries.—There is provision, in Section 4 (4) of the Act, for the appointment, by the Governor, of Council Secretaries to assist the Executive Councillors and Ministers. But few appointments have been hitherto made. A Council Secretary has to serve two Masters and his position is anomalous. The difficulty will be removed if the sub-section is amended thus:

> "A Minister may at his discretion, and with the approval of the Governor, appoint from among the non-official members of

the local legislature, a Council Secretary who shall hold Office during the tenure of Office of the appointing Minister and discharge such duties as are assigned to him by the Minister."

Thus the advantages of making such appointments will be secured.

The Executive Councillors also, if they like, may appoint such Council Secretaries.

Salary of Ministers.—One way by which collective responsibility of Ministers will be strengthened is to make the salary of the ministers *definitely* depend upon the vote of the Council. At present the Governor can, in the alternative, give them a pay equal to that of the Executive Councillors, though the Council *may* cut it down. There should be no such alternative. It only provides a superfluous pretext to draw comparisons between Executive Councillors and Ministers, and between individual Ministers. The discussions on this subject in the Councils have not always been edifying.

Thus in Section 4 of the Act,

For " These may be paid————————————" &c.

Read " The salary of the Ministers shall be provided by the vote of the Legislative Council of the Province."

Parliamentary Governors.—A final advantage of the proposed arrangement must now be pointed out here. Section 3 of the Act provides that " the Governors of the newly created Governors' Provinces shall be appointed after consultation with the Governor General." A clause like this shows what the Viceroy and the Secretary of State *can* do within the four corners of the Act. There is nothing in the Act to prevent them from recommending to His Majesty the appointment of Indians as Governors of these Provinces. The appointment of Lord Sinha is a striking proof of this Statement. Lord Morley did not hesitate to exercise such a discretion in recommending the appointment of Indians as Executive Councillors, and this measure, of which there is no mention in the Morley-Minto Act of 1909, was perhaps the most important part, from the *practical* point of view, of the Reforms associated with those two Statesmen.

But the example was not followed up. On the other hand Members of the Civil Service were elevated to that post. Now I am convinced that if there was ever the necessity of having at the top of the administration Englishmen imbued with Parliamentary traditions, it is now. Upon them has fallen the task of guiding India to the goal of Responsible Government. Whatever merits the Members of Civil Service might claim—they cannot pretend to first-hand knowledge of Parliamentary Institutions; and even the claim to such merits will be weakened if there is any truth in the complaint that well-connected youths in England are now unwilling to choose an Indian career, and there is a consequent falling off in the quality of the Civil Servants. To entrust the delicate task of piloting the ship of Responsible Government through the dangerous waters of political agitation and communal jealousies in India to them is to invite certain disaster. The helmsman *must* either be one who has weathered many a storm in Parliament or one who *instinctively* feels what Indians want, as

only an Indian can feel. My definite suggestion, therefore, is that the section 3 be amended thus : *add* after " consultation with the Governor General," " and at least *two* of them are Indians." Seeing that there will be, in each Province, a Deputy Governor who is of great official experience, there is no necessity of insisting upon the *Governor's* having it. Perhaps a larger salary to the Deputy Governor might remove any discontent among the Civil Service on the ground of its being deprived of its " prizes ".

6. *Other minor Suggestions.*—In view of the Governor's power to administer a subject personally during a " *temporary* " ministerial vacancy, and as a measure of " emergency ", I think that there should be a definite rule that the Governor shall hold a meeting of the same Council within *six* months of the date of prorogation unless he has dissolved it earlier. Such a provision would be a safeguard against a Governor's carrying on provincial administration for an indefinite period, in the absence of a Council.

Allocation of Revenues.—This was the most controversial subject in connection with " Dyarchy " at the time of its introduction. The final arrangements represent a compromise between the " Separate Purse " and " the Joint Purse ". The Rules that were framed to give effect to the recommendation of the Joint Committee were framed with the single object of avoiding a breakdown of the Administration. It has been pointed out that by entrusting the Finance Department to an Executive Councillor, the initiative of Ministers in financial matters was seriously curtailed, and the Reforms were balked of their success.

My proposal to narrowly circumscribe the " Reserved " field will minimise this danger. But considering the interest of the Central Government to ensure financial soundness of every Province, Finance Department is best entrusted to the Senior Executive Councillor.

Provincial Contributions.—In view of the appointment of a strong Committee to go into the whole question of financial redistribution I do not say anything more than expressing the hope that these contributions will be discontinued at an early date. Not until then will the Government of India practice rigorous retrenchment. At present their determination fritters away through the " escaping valve " of these contributions.

7. *Central Government.*—Considering the limitations on the scope of the present Committee of Inquiry I do not think radical changes can be proposed in the Central Government. Its responsibility to Parliament must continue un-impaired. Only minor suggestions can be made.

The Budget.—The ambiguity with regard to the discussion and voting of the Budget should be removed, and the *whole* Budget should be open to discussion of either Chamber. Thus Section 25 (3) should be amended thus :—

" *Delete* Unless the Governor General otherwise directs " after—
" but they shall be open to discussion, etc."

Further the number of heads of expenditure exempted from the *vote* of the Assembly should be as small as possible : in fact only the ecclesiastical

and political charges should be so exempt. The very important head of defence should be definitely thrown open to the vote of the Council, though the Viceroy's power of restoring any grants in this part of the budget should be emphasized.

Similarly I do not see any cogent reason for excluding the salary of the Chief Commissioners from the vote of the Assembly. It is true that the Chief Commissioners are under the immediate supervision of the Governor General ; but (particularly as many of these minor charges have been given some representation in the Assembly), the administration of these tracts should be amenable to review and criticism in the Assembly. Section 25 (3) iv should be amended accordingly.

Council Secretaries.—The appointments were opposed in the Legislative Assembly on grounds of which I fully appreciate the cogency. The difficulties are even greater in the Legislative Assembly than in the Provincial Council, because of the absence in the former of Responsible Government. But they will be diminished if the appointments are made by the Members of the Executive Council (particularly the Indian Members), with the approval of the Governor General. The Secretaries should hold office during the pleasure of the Executive Councillors, but their salaries should depend upon the vote of the Assembly. This would be a faint and indirect approach to the " Simulacrum " of responsibility in the Central Government. In course of time the Executive Councillors should be made to stand in the same relation to the Assembly.

Such an arrangement will give opportunities to the Members of the Assembly to get practical experience of administration, and the Governor General will not be directly involved in any conflict with the Assembly.

Appointments in the Secretariat.—The absence of responsibility in the Central Government makes it absolutely necessary that more Indians should be appointed to important posts in the Secretariat of the Government of India. I most heartily agree with the sentiments expressed on this subject by the Rt. Hon. V. S. Sastri in the Council of State. The Imperial Secretariat should be Indianized from *within* so long as it is not to surrender occasionally to popular attack in the Assembly.

The Public Services.—I am in general agreement with the recommendations of the " Lee Commission " on the Public Services. They are in consonance with the logical implications of " Dyarchy ". Their recommendation regarding the Public Service Commission should be forthwith given effect to.

8. *The Secretary of State.*—The relations between the Secretary of State in Council and the Government of India have been made very elastic by the new Act. Extensive powers of rule-making have been given to the Secretary of State. I do not know if all the new Rules have been made public. The control of the Secretary of State should be relaxed *pari passu* with the substitution of the popular control in India.

In one respect I have to make a definite recommendation : the Secretary of State should have *two* Parliamentary Under Secretaries one of whom should be always an Indian. It will not be difficult for Government to secure a " safe " seat to such an Indian to enable him to become an M. P.

If no seat is available, the Indian should be created a Peer. Possibly some Indians might go to England, stay there and "nurse" a constituency, which, in itself, would be a very valuable training. Not only would the Indian point of view be better put in the House of Parliament by an Indian, but the acquaintance with Parliamentary procedure would be an invaluable acquisition to the Indian. He would, on his return to India, be better fitted to be a Governor of a Province as recommended in an earlier part of the statement. Lord Sinha's case is a precedent for such a practice.

Conclusion.—Such are my views and recommendations regarding the proposed amendment of the Indian Constitution. Important powers can be transferred to the people even within the Act as it now stands, and the present *interim* Inquiry will have justified itself, only if it explored all such possibilities of transfer *within* the Act and made suitable recommendations to the Governor General in Council.

B. G. SAPRE.

26th July 1924.

WELLINGDON COLLEGE, DIST. SATARA.

Memorandum of the Deccan Sabha, Poona.

The Council of the Deccan Sabha, Poona, desires to submit for the consideration of the Reforms Enquiry Committee the following views on the subject of the difficulties arising from, or defects inherent in, the working of the Government of India Act and the Rules thereunder.

2. The Council of the Sabha at the outset regrets that the Government of India, in inviting representations from the public have not favoured public bodies with any questionnaire embodying questions regarding specific provisions of the Act; neither have they seen their way to place the public in possession of any data as a result of their own preliminary Departmental enquiry into the question through an earlier Committee presided over by the Home Member. Under these circumstances, it is not the purpose of this memorandum to offer a detailed criticism of the provisions of the Government of India Act, or to suggest amendments thereto in detail, especially as the Sabha does not lay claim to any authoritative inside knowledge of the day-to-day administration under the Act, or of any of the confidential rules passed under the Act, *e.g.*, for the transaction of business, between the Governor in Council or the Governor acting with Ministers. The views submitted herein are broadly set forth as based on observations and experience of the working of the Indian and Provincial Legislatures, their relations with the Executive, and the general effect of the Reforms on the well-being of the people in all Departments of administration since 1921.

3. The Council of the Sabha notes with regret that the terms of reference to the Committee seem to be restricted in scope and purpose, inasmuch as the Committee is asked to investigate the feasibility of securing remedies for the defects in the Act, either by—

(*a*) action taken by the rule-making power under the Act, or

(*b*) by such amendments of the Act as may be necessary to rectify administrative imperfections.

4. In the opinion of the Sabha, the working of the Government of India Act has disclosed not only minor imperfections but some serious structural defects; these involve not only minor repairs to the political machine, but structural alterations; and as the two stand together, the administrative imperfections cannot be rectified without touching questions of principle and policy.

In submitting the following views, the Sabha interprets the expression "Administrative imperfections" contained in the terms of reference to mean, in the broadest sense, such imperfections, as hamper administration and good government; and it further trusts that if the existence of substantial defects is demonstrated by the present inquiry, Government will not hesitate to urge upon Parliament a remodelling of the Act, irrespective of the ten years' statutory period, even if, as a logical outcome of this inquiry, the remedy involves a larger issue concerning the policy underlying the Act.

Central Government.

5. (1.) The Council of the Sabha desire to point out that the fundamental defect, inherent in the working of the Government of India Act, as seen in actual practice almost at every step, during the last three or four years, is the anomalous position of the Executive, which is responsible to Parliament through the Secretary of State, but which is faced with a non-official elected majority of five-sevenths in the Legislative Assembly and two-thirds of non-official members in the Council of State. During the life of the first Legislative Assembly, the Executive could carry on its necessary administration only by the good will of the Assembly ; instances, however, were not wanting of the Executive coming into conflict with the Legislature and having had to resort to the Governor-General's extraordinary powers of restoration of Grants or Certification of Bills. The difficulty has been still further aggravated in the second Assembly, whose conduct has been one of constant warfare with or obstruction to, the Executive—an opposition which is perhaps the unavoidable result of a system which stints the popular branch of the Legislature of the necessary privileges of a representative body. The result is obvious, and may well be imagined if in England, for instance, the Crown were to try to retain a Ministry in spite of a hostile majority in successive elections. The Executive is bound under such a system to find itself unable, in spite of all its arts of blandishments or cajolry to carry through its essential legislation or obtain its supplies necessary for purposes of a smooth and efficient administration.

Control of the Secretary of State.

(2) Another serious defect of the present Act which causes constant delay in administration and thereby great difficulties is the rigid control of the Secretary of State for India over the whole field of administration of the Government of India. Section 2 of the Act gives comprehensive powers to the Secretary of State " to superintend, direct and control all acts, operations and concerns which relate to the Government of India, or the revenues of India and all grants of salaries, gratuities and allowances and all other payments and charges out of, or on the revenues of India ". Again under Section 21 of the Act, he has control over the expenditure of the revenues of India, both in British India and elsewhere. This control by the India Office and the latitude allowed thereunder to the Executive in India may, of course, vary according to the individual ruling at Whitehall, from time to time, but during the last three years and more, it has been a noteworthy phenomenon that the Government of India, although willing to meet the demands of the representatives of the people in a liberal spirit were presumably pulled by the Secretary of State. This excessive control hampers the administration. Constant and interminable references to India Office in the matter of sanctions for appointments, financial adjustments, budget arrangements, or legislative measures of no importance are difficulties which impede the administrative machine. Apparently provision has been made in the Act under section 19A. for some relaxation of this control but it has been contended on behalf of Government that rules for such relaxation cannot be framed so long as the Secretary of State, and his agents the Government of India are responsible to Parliament. It appears, however, to the Sabha that the very insertion in the Act of section 19A. by Parliament when it passed the Act in 1919 shews that Parliament

did contemplate to make it possible for the Secretary of State to relax his control, although Parliament then knew that no element of responsibility existed in the Central Government. However, whatever the interpretation of section 19A. on this point may be, the Sabha is convinced that unless this control is relaxed, either by rules or by a change in the Act, so as to give the Government of India the largest measure of independence of the Secretary of State which is compatible with the discharge of his own duties, the extreme rigidity of this excessive control will in actual practice in coming years, prove more and more an impediment to good administration.

(3) A third and by no means a less embarrassing drawback inherent in the Act is the far too tight a grip of the Secretary of State under his statutory powers over the handling of the revenues of India in the United Kingdom. In the opinion of the Sabha, the time has arrived to amend the Act in such a manner as to enable the Government of India to manage their own financial operations in England through the High Commissioner, and not necessarily through the Bank of England, subject, however, to such moneys as may be prescribed under any law to be reserved in the hands of the Secretary of State to meet his obligations in England.

(4) Another source of difficulty and friction between the Executive and the Legislature has been the limitations placed by the Act on the powers of the Legislature to discuss and vote Budget supplies according to the classification under section 67A. of votable and non-votable items. This provision of the Act is framed and also interpreted in a way which shows an amount of distrust of the Legislature ; it compels the Assembly to utilise its voting powers arbitrarily as a level against the non-votable items, much to the detriment of harmonious administration. The section should be made clearer, non-votable items of the Budget should be clearly defined and their category cut down to the lowest limits.

(5) Considerable difficulty and trouble have been engendered by the provision as worded at present in section 67B (1) for a case of refusal or failure on the part of the Legislature to pass Legislation which is deemed administratively essential by the Executive. The Governor-General is empowered in such a case to certify that the passage of a Bill is essential for the " safety, tranquillity and interests of British India ". The words " and interests " are too wide even for purposes of an affirmative power of legislation ; it is difficult, no doubt, to suggest any substitute for this wording ; but the Sabha thinks that they can safely be dropped from this Section, leaving the said power to be exercised by the Governor-General only for the safety and tranquillity of British India.

6. These are the main defects in the Act, which, it is desirable to remove at the earliest opportunity.

The principal change necessary for making the Act smoothly workable and to remove its defects is to introduce responsibility in Central Government. The Liberal party to which the Sabha belongs has from the very beginning of the discussion of the Montagu-Chelmsford proposals contended for the principle of some responsibility in the Central Government. The working of the dual system in the Provinces has now made it clear that the amount of responsibility in the Central Government needed for purposes of good administration is the transfer of all the

subject except (*i*) Political and Foreign relations, and (*ii*) Defence of the country, for which alone the Government of India should remain responsible to Parliament. The Sabha is emphatically of opinion that this is the only abiding solution of the present unworkability of the Act, and ventures to urge upon the attention of the Committee the need to persuade the higher authorities and Parliament to realise the situation and undertake a revision of the Government of India Act on a wider basis.

7. The Sabha urges this change in the interest of good administration and not out of impatience for any premature constitutional advance. The Sabha is aware that such a change in the structure of the Act may be viewed either by the Government of India or by Parliament as too momentous or too sudden a change to be thought of at the present stage of Indian political development. The Sabha is not unaware of the many objections raised to so substantial an advance on the ground, *e.g.*, of the condition of the electorates in India, difficulties due to communal differences, the interests of minorities, and the interests of European commerce. The Sabha does not propose to enter here into an elaborate argument regarding these objections on the part of Government since they have been sufficiently answered from time to time by political leaders of all complexions. It will suffice for the present to emphasise that though many of these difficulties do exist and deserve anxious consideration it must be borne in mind that they are not likely to disappear even at the end of 1929, or still later.

8. The Sabha wishes to place the case here in favour of the introduction of responsibility mainly on the grounds of avoiding an impasse in administration. The problem is one of irremovable Executive confronted with an adverse elected majority in the Legislature. As the Montagu-Chelmsford Report in one place has remarked (p. 105), " Wherever, as in Canada or Malta, attempts have been made to set up an irremovable Executive and a popular Assembly, acute conflict has ensued and has resulted in either an advance to popular Government or a return to autocracy ". This being the experience, what will be the alternatives before the Government of India or the Parliament ? Will it be a return to autocracy ? or will it be a continuous warfare with an obstructive majority, kept at bay, till 1929, by the Governor General's extraordinary powers of restoration of grants, or certification of Bills, or by the power of dissolution ? It appears to the Sabha that good government and good statesmanship alike demand that grant of responsibility is the only alternative, subject to constitutional safeguards in the hands of the Governor General.

9. The subject of ' Defence ' and ' political relations ' should under the above proposals, remain in charge of the Governor General. But for purposes of the Budget, the expenditure under these two heads should remain entirely votable, subject, however, to a power to the Governor General to restore any grants pertaining to these subjects, that may have been refused by the Legislature. The Sabha believes this will be a sufficient safeguard in the interests of these subjects for which the Governor General will be responsible to Parliament.

Governors' Provinces.

10. With reference to the working of the Act in the Provinces where the element of responsibility has been at work under the system of

dualism by " transferred " and " reserved " subjects. in the opinion of the Sabha the following are the imperfections and defects in the working of the Act :—

(1) The responsibility of the Ministers to the Legislature has been affected in practice by the presence of the official members on the one hand and the communal character of the representatives on the other.

(2) *Ministers and policies.*—The purpose of the Act in transferring certain " Nation Building " Departments to popular control for initiation of any new policy has not been adequately fulfilled so far as real initiative is concerned—partly owing to inter-dependence of transferred and reserved departments, and partly owing to delay in obtaining finance for new schemes under the treasury control of the Finance Department, which is a reserved subject. Ministers under these circumstances have not been able to initiate new policies and make them really effective or homogeneous. The inter-dependence of subjects in any Government administration being inevitable, the system of division of subjects—one for the administration of ministers responsible to the electorates, the other for the administration of Executive Councillors—is in itself an inherent defect of the Act, which although tolerated in the transitional stage need not any further be retained.

(3) *Legislation.*—The right of introducing private legislation in Provincial Councils has been affected by reason of previous sanction of the Governor-General being necessary under section 80A. on the ground of the proposed private legislation affecting some of the subjects enumerated in the sub-section (3) of section 80A.

(4) *Governor's relations with Ministers.*—The Sabha has grounds to believe that the plan of joint deliberation between the Governor and the two halves of his Government, as envisaged by the Joint Parliamentary Committee on the Government of India Act, though observable in some Provinces, appears not to be uniformly present in all the provinces. Decisions in times of acute public feeling taken by the reserved Departments, though no doubt falling within their sphere seemed on many occasions, during the past few years, to have borne no impress whatever on the advice or the acquiescence of the Ministers; further the Sabha is not quite sure if in the adjustments of any differences between the Governors and their Ministers such differences have been ultimately settled more often in favour of the Ministers than in favour of the Governors. In short insufficient joint deliberation and want of collective responsibility have been the chief drawbacks of the dual system.

(5) *Financial arrangements.*—The financial arrangements under sections 17 and 18 of the Devolution Rules have not worked satisfactorily and the contributions to the Central Government have seriously affected the development of Ministers' Departments. The share allocated to Local Governments in Income-tax Revenue under Devolution Rule 15, is inequitable, and requires immediate revision. In this connection the Sabha ventures to suggest whether instead of the pie rate basis, some system analogous to the system in some of the Dominions may not be devised here by the recently appointed Taxation Committee, whereby a fixed share in Imperial Revenues, such as Income-tax, can go to the Federal Exchequer, and the remaining share could be refunded to the Province, in proportion to the receipts collected in each Province.

(6) *Budget Demands.*—The same remarks as applied to the power over "Votable" and "Non-votable" items in the Indian Budget System hold good as regards Provincial Budgets. Also the power of moving re-appropriations, so as to alter the destination of a grant from one head to another (though not between reserved and transferred heads) which obtained in the old Councils should be allowed to the Legislative Councils.

11. From these imperfections found in the working of the Act, either singly or in their cumulative effect, the Sabha is driven to the conclusion that the best method of rectifying the defects would be to so amend the constitution as to do away with the present half-way house and to introduce full autonomy in the provinces. The Sabha fears that it may not be feasible to effect this change under the present Act or Rules thereunder, but it is strongly of opinion that all necessary steps be taken to secure a substantive amendment of the Act to put an end to the present dyarchical form of Government.

12. The Sabha thinks that generally the following changes, *inter alia* may be brought about :—

(1) In the provisions of Part V of the Government of India Act, Section 45 (1), the powers of control of the Governor General in Council over Local Governments be restricted for the purposes of safeguarding the interests of central subjects only.

(2) The composition of the Governors' Executive Councils be altered so as to have a Cabinet system and rules for transaction of business be framed after Cabinet practice. The Governor to be only a constitutional Governor.

(3) Section 46 (2) be amended so as to restrict Governorships to men outside the Public services, preferably to men with Parliamentary experience in England.

(4) Legislation on provincial subjects should be freed as much as possible from the present restrictions of previous sanction of the Governor General in Council being obtained ; list of subjects marked "subject to legislation by the Central Legislature" should be reduced to the minimum.

13. *Local Legislatures.*—(1) The composition of Local Legislatures as provided in section 72A. may be retained as at present for some time, but it should be provided that the communal electorates would continue not beyond only a few years.

(2) *Section 72B.* (*c*).—After dissolution of a Council by a Governor in no case should an interval of more than six months elapse between the dissolution and the next election, not even with the sanction of the Secretary of State.

(3) Provincial finance should be made more autonomous than at present. Rules 21 of the Devolution Rules for instance, empowering the Governor General in Council to compel Local Governments to restrict their programmes of expenditure so as not to reduce their credit balances below a stated figure should be modified, so as to allow largest financial autonomy to provinces over their own revenues.

Memorandum of the Bombay Branch of the National Home Rule League.

PART I.

We observe that the work of the Reforms Enquiry Committee falls into two parts : (1) an enquiry into the difficulties arising from, or defects inherent in, the working of the Government of India Act and the Rules thereunder in regard to the Government of India and the Provincial Governments ; (2) an investigation into the feasibility and desirability of securing remedies for such difficulties or defects consistent with the structure, policy and purpose of the Act. According to the terms of reference of the Committee, the remedies proposed may either be by action taken under the Act and the Rules, or by such amendments as appear necessary to rectify any administrative imperfections.

The Committee is thus precluded by the terms of reference from pursuing its enquiry beyond the difficulties arising from, or the defects inherent in, the working of the Government of India Act and the Rules thereunder and examining the Act itself. In other words, the enquiry is strictly limited to administrative as distinguished from constitutional imperfections ; and, further, the Committee is to keep in view the structure, policy and purpose of the Act in making its recommendation.

At the outset, we desire to place on record our protest against the very serious restrictions imposed on the scope of the Committee's enquiry and on the recommendations it is permissible for the Committee to make. If by the words " structure, policy and purpose of the Act ", the reference is to the preamble to the Government of India Act, exception must be taken to the suggestion that " the responsibility for the welfare and advancement of the Indian peoples " rests, save in a constitutional sense, with Parliament ; and in particular, to the implication that the " Indian peoples " themselves can have no voice in the determination of their political status. Nor can we accept without demur the tests laid down in the preamble by which Parliament will judge as to the time and manner of each advance of India towards responsible Government. Questions as to the " cooperation received from those on whom new opportunities of service are conferred ", and " the extent to which experience shows that confidence can be reposed in their sense of responsibility " must fail to find satisfactory or adequate answers without other factors being taken into account. It is undeniable that in spite of the hostile political atmosphere in which the first Reformed Councils carried on their work and the severe handicaps of acute financial stringency throughout the period, there was never lacking on the part of the representatives of the people any willingness or earnestness in utilising these " new opportunities of service " to their utmost extent. The great change in the personnel of the new legislatures at the last elections and with it, in the spirit in which some of them have lately interpreted their functions, constitutes, in itself, an eloquent proof of

the inadequacy of the Reforms. It may be urged in answer that the failure of a large number of the representatives of the people in the first Councils to be returned at the last elections can be attributed to other reasons ; for example, to the lack of political knowledge among the electorates and their consequent inability to grasp the issues. From this point of view we must express our dissent. It is no doubt true that owing chiefly to the abnormal political conditions prevailing in the country, the spread of political knowledge was rendered extremely difficult. But even under the favourable conditions it would have been impossible to resist the general conclusion that the greatest reason for the failure of the Reforms to satisfy the aspirations and the requirements of the people is to be found in the Reforms themselves. The increasingly frequent interference of the Secretary of State with the Government of India; the inability of the latter to give effect even to such resolutions as were passed with their concurrence; the heavy military expenditure over which the Legislative Assembly could not exercise any influence except that of discussion ; the use of the Governor-General's power of certification in doubling the salt tax in 1923 after two successful refusals to enhance the tax by the Assembly ; the restoration of a grant for the Royal Commission on Public Services after its rejection were some of the factors which brought about a profound change in our attitude from one of hope in 1921 to disillusionment in 1923. We claim that the co-operation which we extended to the working of the Reforms was throughout whole-hearted and full, as is borne out by testimony from various sources, both official and non-official ; and on this ground, as much as on our inherent right, we rest our view that the time has come for an immediate advance towards responsible Government.

We have examined section 19A. of the Government of India Act which gives power to " the Secretary of State in Council, notwithstanding anything in the Act, by rule to regulate and restrict the exercise of the powers of the superintendence, direction and control vested in the Secretary of State and the Secretary of State in Council by this Act or otherwise in such manner as may appear necessary or expedient in order to give effect to the purposes of the Government of India Act, 1919 ". The position was examined in respect of the rule-making power conferred upon the Secretary of State and the Secretary of State in Council in a debate in the Legislative Assembly on 18th July 1923 on the motion of Dr. Gour. We are not sure that section 19A of the Act which says : " Nothing in this Act shall derogate from any rights vested in His Majesty, or any powers of the Secretary of State in Council, in relation to the Government of India " ; this clause, in our opinion, would prevent the Secretary of State or the Secretary of State in Council from delegating any powers to the Government of India or the provincial Governments. But even apart from this consideration, the interpretation placed upon section 19A of the Act by Sir Malcolm Hailey in the course of his speech in the debate referred to above seems to us to be correct. According to that interpretation, which, we would add, had previously been adopted by the Joint Select Committee in its report on the Government of India Bill, utmost that is possible is the establishment of a convention of non-interference, the statutory control of the Secretary of State, and therefore of Parliament still remaining, though in abeyance. He stated the possibility of a statutory divestment of control only under

the following circumstances : " if Parliament is to be asked to divest itself of control over any particular subject, it seems to me that it can only do so when we have responsible government within the Central Government, that is, when certain subjects are transferred to the control of the Indian Legislature. We should then have a process exactly parallel to that which has been followed in Provincial Governments. There you have certain subjects transferred ; that is, they are under the control of the Legislature, in so far that their administration is in the hands of Ministers who are responsible to the Legislature. It was in recognition of this fact that Parliament was able to divest itself of control over those particular subjects." It is presumed that Sir Malcolm Hailey made this statement on behalf of the Government of India and the Secretary of State. There has been no repudiation of this interpretation of section 19A so far as we are aware by either of these two authorities and we must take it that the interpretation is accepted by them as correct. We would point out that the establishment of a convention established by one Secretary of State may as easily be upset by his successor. That this is no mere academic view but can be borne out by facts can be demonstrated in abundant measure by the experience of those who were members of the first Legislative Assembly. How far, in actual practice, the Secretary of State is consulted and his advice taken in the ordinary administration of the Government of India is a matter on which non-officials can speak only by inferences, and supported by official statements. But attention was frequently drawn by them, particularly at the time of the discussion of the Budget, to the large increase in the expenditure on telegrams. It was the general experience of non-official members of the Legislative Assembly that action on important resolutions passed by the Assembly, often with the concurrence of the Government of India, has not been taken in spite of the long period of time which has elapsed since their passage. As an instance, we would invite attention to important resolutions on the Esher Committee's Report passed on the 25th March 1921. In a debate raised by Sir Sivaswamy Aiyer on 4th July 1923 to press upon the Imperial Government to expedite action in regard to above, Mr. E. Burdon, the Army Secretary, said : " these resolutions were adopted with the concurrence of the Government of India, and I may say, that the proposals were duly laid before His Majesty's Government. But they have not been accepted." That there was no effort wanting on the part of the Government of India to translate these proposals into action was made apparent by His Excellency the Commander-in-Chief who declared later in the same debate that he had done his very best for two years in the direction suggested by the resolutions but without success. In the Civil Administration of India also, instances could be given of the frequent interference of the Secretary of State even in matters which relate only to minor details.

We would also invite attention to the debate in the Legislative Assembly on 10th July 1923 on the powers of certification of the Governor-General. Mr. L. Graham, speaking for the Government of India, defended the wording of section 67B in which occurs the expression, " safety, tranquillity or interests," on the constitutional ground that the Governor-General has responsibilities not to the Indian Legislature but to Parliament. The view was subsequently reiterated by Sir Malcolm Hailey that " so long as the Central Government is responsible to Parliament for the whole range of subjects with which it deals, it is necessary that

the word ' interests ' should remain in the Act ". In spite of the assurances of H. R. H. the Duke of Connaught and Lord Chelmsford at the opening of the Indian Legislature in 1921 that autocracy had been abandoned, and the promise of the Finance Member of the Government of India in his Budget speech of the same year that no taxes would hereafter be levied except with the consent of the Legislative Assembly, the salt-tax was doubled last year by resort to the emergency powers vested in the Governor-General after the proposal had been twice rejected by the Assembly.

There is a third point which merits consideration. The question as to how far the discretion of the Governor-General extends in permitting the Indian Legislature either to discuss or to vote upon the Budget has been decided by the Law Officers of the Crown in England in a manner adversely affecting the political aspirations of India. Serious doubts have been expressed by competent legal authorities in this country as to the soundness of the view taken of section 67A of the Government of India Act by the Law Officers of the Crown in England which prevented the Legislative Assembly from voting expenditure on certain items and particularly on Defence. We hold strongly that failing this, Indian opinion would not be satisfied with anything less than a certain minimum of expenditure on Defence being temporarily made non-votable the period for and the amount of which may both be decided hereafter by consultation ; and all proposals for expenditure beyond this essential minimum should be subject to the vote to the Legislative Assembly.

There is one more point of importance to which we draw the attention of the Committee. The President of the Assembly in the first two years of the first Assembly allowed non-official members to make proposals for alternative taxation and these were discussed on the floor of the House. In 1923, however, he gave a ruling by which non-officials were precluded from proposing alternative taxation and in doing so, he relied on the practice of the House of Commons. Mr. Jamnadas Dwarkadas, our President, who was then in the Assembly, drew attention to the fact in the course of a speech that it was not right to impose upon this House the restrictions of the House of Commons without extending to it the privileges similar to those enjoyed by the British Parliament, where Government would have to go out of office if their proposals were not accepted. In 1923, the President went back on the ruling he had previously given, allowing members to reject or reduce some grants on the votable items on the ground that the expenditure on the non-votable items was unjustifiable.

It may, perhaps, be possible by action taken under section 45A so to increase the number of transferred subjects in the provinces as to confer on them complete autonomy ; it is a demand which has been voiced by *ex*-Ministers in more than one province and, if the provincial Councils had been permitted to discuss the subject, they would have been supported, in all likelihood, by all of them. But even complete provincial autonomy, without the introduction of responsibility in the Central Government, would fail to bring relief to the discontent widely prevalent in India ; while, according to one authority, competent to express an opinion on the matter, there would be, under this arrangement, constant friction between the autonomous provincial Governments and an autocratic Central Government. We would, therefore, urge that no time

should be lost in securing a revision of the present constitution so as to confer upon the people responsibility in the Government of their country, with certain reservations in the Central Government as regards defence and foreign affairs until they are able to undertake the burden of full responsibility. We are convinced that the defects in the working of the Act cannot be removed without a radical change in the Act itself. It is for that reason that we have refrained from examining some of the other provisions of the Government of India Act under which action in certain directions may be possible ; as an instance, attention may be invited to section 43A, which would enable members of the Legislative Assembly to be appointed Council Secretaries. A resolution on this subject was, in fact, brought forward, but it was opposed by most of the non-officials in the Assembly on the ground that such a step would weaken their voting strength and rejected. Advance by the rule-making power conferred by the Government of India would be of such a tardy nature and, under the existing constitution of such doubtful value, that we would earnestly press for an inquiry of a comprehensive character. It is obvious that such a step was realised as being within the bounds of possibility when Sir Malcolm Hailey declared on behalf of the Government of India, with the authority of His Majesty's Government : " but if our enquiry shows that no advance was possible without amending the Constitution, then the question of advance must be left as an entirely open and separate issue on which Government is in no way committed." (Legislative Assembly Debate, 18th February 1924, p. 765). A similar statement was made by the Secretary of State in the House of Lords so recently as the 21st July this year.

We would submit, in conclusion, that it is in the hope raised by the two declarations contained in our previous paragraphs that we are submitting this Memorandum.

JAMNADAS DWARKADAS,

President,

Bombay Branch of the National Home Rule League.

PART II.

POWERS OF PROVINCIAL LEGISLATURES.

(By Kanji Dwarkadas).

Section 80A of the Government of India Act, 1919 deals with the powers of the Provincial Legislatures and sections 80A (3) reads as follows:—

" The Local legislature of any province may not, without the previous sanction of the Governor-General, make or take into consideration any law

(*e*) regulating any central subject,

(*f*) regulating any provincial subject which has been declared by rules under this Act to be, either in whole or in part, subject to legislation by the Indian Legislature in respect of any matter to which such declaration applies

provided that an Act or a provision of act made by a local legislature and subsequently assented to by the Governor-General, in pursuance of this Act, shall not be deemed invalid by reason only of its requiring the previous sanction of the Governor-General under this Act."

This clause created certain difficulties in the Bombay Legislative Council on more than one occasion, and it should be brought to the notice of the Reforms Enquiry Committee whose terms of reference are :—

> "The Committee will enquire into the difficulties arising from or the defects inherent in the working of the Government of India Act and the rules thereunder and in regard to the Central Government and Governments of Governors of Provinces. (2) Investigate the feasibility and desirability of securing remedies for such difficulties or defects consistent with the structure, policy and purposes of the Act by action taken under the Act or by such amendments as appear necessary to rectify any administrative imperfections."

In December 1922, the Bombay Legislative Council passed the first reading of and committed to a Select Committee the Bombay Port Trust Act Amendment Bill which made provision for an increase of Indian representation on the Port Trust Board. The Select Committee then made some changes in the Bill, and whilst formally presenting the report of the Select Committee and moving the second reading of the Bill at the February (1923) Session of the Council, Sir Chimanlal Setalvad submitted for the consideration and ruling of the President a question that arose with regard to the Bill. The Port of Bombay, he said, being a major port, was a Central subject, and therefore, under section 80 (3)A, no legislation affecting such Central subject could be considered or passed by the Council without previous sanction of the Governor-General. The Bombay Government had, therefore, before introducing the Bill, obtained the previous sanction and when the Select Committee made certain alterations in the Bill the assent of the Governor-General was again obtained. Sir Chimanlal pointed out that notices for further amendments had been given by certain members, and said "My submission is that under section 80(A) (3), these amendments could not be considered unless the previous assent of the Governor-General has been obtained". He said that if the members pressed their amendments, Government would have to abstain from moving the second reading of the Bill and to go to the Governor-General to obtain his assent to these amendments being considered by the Council. "Even if the second reading of the Bill is moved, it cannot become finally law till the previous assent of the Governor-General is obtained."

The President (the late Sir Narayan Chandavarkar) said that he could not assent to the argument of the General Member that when the Council was called upon to consider a Bill of this kind, it could do so only in one of two ways,—either by accepting the Bill as it is brought with that consent or by rejecting it, but it had no power to consider any amendments proposed to be moved unless their consideration also had

been previously assented to and allowed by the Governor-General. He pointed out that the word " considered " was a well-known phrase in Parliamentary usage and that it was used in May's Parliamentary Practice in its ordinary and more comprehensive sense. He said that the meaning of the expression " to take into consideration " cannot be restricted and the Council cannot be deprived of its inherent right of debate, effective vote and amendment unless the statute concerned cuts down that right in clear and unambiguous terms. *Section 80 does nothing of the kind.* The President added " If I were to accede to the position maintained by the General Member of Government, namely that this House has no option but to consider the Bill only by way either of rejecting or accepting it, then I should be giving a ruling subverting the constitution altogether and depriving this Council of its rights and liberties." The President summed up his ruling as follows :—

> " The proper procedure for the Council is this : the amendments of which notices have been given can be moved without the previous consent of the Governor General, provided they are in accordance with our Rules and Standing Orders. The House has every right to amend the Bill or to accept or reject it as amended by the Select Committee. That Bill so amended and assented to is now submitted for the Council's consideration by way of second reading. If the Council on second reading amends the Bill, then the previous sanction of the Governor General to the Bill so amended shall have to be obtained before the Bill can be proceeded with to the further stage of a third reading.
>
> That is my ruling on the points of order raised. My ruling preserves to the House its rights and at the same time carries out the intention of the Act as to the previous sanction of the Governor-General."

On this ruling being given, Sir Chimanlal appealed to the Honourable Members that the best course would be to go through the Bill as it stood and get the new constitution to work with the elected members as proposed and then for any further proposals for amendments they might take the necessary steps under the Law. Otherwise the result would be that the Bill would not come into operation for many months more or might not come into operation at all.

The result of the President's ruling and the subsequent appeal of the Member in charge was that the Bill for which the previous sanction of the Governor General was obtained was passed by the Legislative Council without making any alterations.

Let us now examine the point of Order raised by Sir Chimanlal Setalvad. He said " My submission is that, under section 80A to which I have already referred, these amendments could not be considered unless the previous assent of the Governor General has been obtained ". But here Sir Chimanlal was in the wrong, for the proviso quoted above makes provision for subsequent assent by the Governor-General, *i.e.*, the amendments could have been moved, but in the event of their being accepted by the Council, the Council could not finally adopt any legislation in that direction till the Governer-General had given his assent to the charges adopted by the Council. Sir Chimanlal was again in the wrong when he said that if non-official members pressed their amendments, Government would have to abstain from moving the second

reading of the Bill as they would have to go to the Governor-General to obtain his assent to these amendments being considered by the Council. But he was right when he warned the Council that " the Governor-General may not give his assent to the further amendments that have been proposed ".

The President's ruling, however, places restrictions on the powers of the Council, *viz.*, that having made certain alterations in the Bill in the second reading the Council cannot " proceed with the further stage of a third reading ". But if we keep in mind the proviso, even as the section stands at present, this restriction is not valid, for it is very clearly stated that an Act subsequently assented to by the Governor-General would mean that the previous sanction was obtained. It seems Sir Narayan Chandavarkar lost sight of the proviso and to that extent, if I may be permitted to say so, without meaning any offence to the memory of the able President, this ruling was defective.

Similarly this question of " previous sanction of the Governor-General " interfered with the wishes of the Bombay Legislative Council when it discussed and passed the Prevention of Prostitution Bill. Here the case is still more striking as both the Bombay Government and non-official Members agreed that certain amendments were necessary in order to make the Bill better, but the ghost of the previous sanction of the Governor-General was brought up, with the result that the amendments were left out. Clause 5 of this Bill read :—

> " (1) Any male person who knowingly lives wholly or in part on the earnings of prostitution shall be punished with imprisonment which may extend to two years, or with fine which may extend to one thousand rupees, or with whipping, or with any two of those punishments.
>
> (2) Where a male person is proved to be living with or to be habitually in the company of a prostitute, or is proved to have exercised control, direction or influence over the movements of a prostitute in such a manner as to show that he is aiding, abetting or compelling her prostitution with any other person or generally, it shall be presumed, until the contrary is proved, that he is knowingly living on the earnings of prostitution ".

The Select Committee in their Report say " We considered at some length the question whether in section 5 the word ' male ' should be deleted so as to give the section a much wider application ; but since the change will probably involve a reference to the Government of India for previous sanction which will delay the passing of the measure, we decided that the change will be better effected hereafter by an amending Act ". The Report is signed by Sir Maurice Hayward (Home Member), Messrs. S. D. Garud, Kanji Dwarkadas, Jehangir B. Petit, O. Rothfield and S. J. Murphy (Legal Remembrancer).

Without going into the merits of the amendment which it is unnecessary to do for the purposes of this article, it will be noticed that this amendment was a very important one, and in spite of the fact that both the Government as represented in the Select Committee by the Home Member and the Legal Remembrancer and the non-officials were

in favour of it, they had reluctantly to give it up as " the change will probably involve a reference to the Government of India for previous sanction which will delay the passing of the measure ".

Other instances will also be found not only in the Bombay Legislative Council but in the other Provincial Councils, where the Rule regarding the previous sanction of the Governor-General has interfered with their freedom to legislate in any way they liked on subjects on which they were competent to legislate.

In view of the difficulties that have arisen in the past, this point should be carefully considered by the Reforms Enquiry Committee specially because with the granting of full Provincial Autonomy, there would be very great temptation on the part of Government of India to exercise to the fullest possible extent its hold on all legislation. And if the section is allowed to remain as it is, it is bound to interfere with the full and proper working of Provincial Autonomy.

31st July 1924. KANJI DWARKADAS.

Memorandum of the Bombay Presidency Association.

PART "A."

The Bombay Provincial Government.

The Council of our Association beg to state that, the Morley-Minto reforms, it was claimed, had modified the bureaucratic character of the Government and offered for the first time to elected representatives responsible association with the administration. But it is well-known that the constitution so offered ceased in the brief space of about 10 years time to satisfy the political hunger of India, mainly because the antecedent conditions of success were lacking. There was no general advance in local bodies, no real liberation of Provincial Finance, and no admission of Indians on a large scale into the Public Services. The sphere, moreover, in which the councils could then affect Government action in respect of finance and administration was closely circumscribed. The result was that the councils ceased to satisfy Indian opinion and their continuance was expected to lead to further cleavage between Indian members and the Government, and a further continuation of "criticism unchecked by responsibility." Thus, the old structure could not admit of development; it was, therefore, necessary to create a new structure in the shape of Government of India Act of 1919.

2. The avowed object of the Act was to design the first stage towards responsibility." Thus, the old structure could not admit of development; some share of responsibility on their elected representatives. These electorates were to grow and their representatives were to gain practical experience of the conduct of public affairs by closer association in the diverse spheres of administration. From the beginning, the people of India were to be given generous opportunities of learning the actual business of Government. This was in fulfilment of the famous announcement of 20th August 1917 which promised a substantial step in the direction of the gradual development of self-governing institutions with a view to the progressive realization of responsible Government and not merely of *partial* introduction of responsible Government and it was still claimed for the Act that it is this distinction which justified the dual form of Government. The Ministers, enjoying the confidence of a majority in the Legislative Council were to be given the fullest opportunity to manage the Transferred Subjects and the relations of the two parts of Government—Transferred and Reserved—were to be harmonious and mutually advantageous and the Governor was to be instructed to foster the habit of free consultation between both halves of the Government in all important matters of common interest. Ministers were expected to contribute their knowledge of the people's wishes and susceptibilities and executive councillors their administrative experience to the joint wisdom of Government. Each side of Government was thus to advise and assist the other but neither was to control or impede the other.

3. It is claimed for this new constitution, that it has introduced fundamentally radical change in the Government of India about 4 years ago. The working of that constitution has, however, not justified this claim but

has revealed certain defects and difficulties which are now being inquired into, with a view to the exploitation of the present constitution for the discovery of remedies for the defects and difficulties shown in its working. Thus, we start with a change of the original stand-point deliberately intended to take Indians on to responsible Government and in the provinces to the goal of provincial autonomy by a transitional stage in which responsibility was to be learnt and digested. Now, provincial autonomy, if it means anything real, clearly means that the Provinces must not be dependant on the Indian Government for the means of provincial development. Ordinary growth of expenditure even in the old days was normally provided but for any large and costly innovations provincial Governments depended on doles out of surpluses of the Government of India. Therefore, the Government of India Act wisely provided for financial devolution and complete separation of Provincial revenues. Divided heads were abolished and the Bombay Presidency was given all the revenues from Excise, Land Revenue, Stamps, Forest, Irrigation and smaller miscellaneous receipts which brought up the annual income of the Presidency to 13 to 14 crores of rupees. The gross provincial revenue of Bombay was calculated to leave a gross provincial surplus of about one crore of rupees on the actual figures of 1917-18 and, before the reforms were introduced there was a surplus of about 5 crores of rupees and it was piled up by stringent economy effected at the cost of nation-building departments. The new reforms at the very commencement struck on the adamantine rock of finance, as, in the very first year, they were faced with provincial insolvency with the result, that the financial stringency became so great, that all avenues for improvements in the direction of the spread of mass education, sanitation, peasant indebtedness, technical education and the growth of industries were closed. It would be clear to any student of our provincial finance that the surplus of 5 crores was used very heedlessly, nearly half of which was consumed in giving increments to the Services, first to the All-India Services, and then, as a result of agitation in the Legislative Councils, to the subordinate services. A regrettable mistake in the calculation of the provincial expenditure of this Presidency on this head was made and is, therefore, mainly responsible for the outward defects of the constitution. It is no wonder then that the proposition that " if the provinces are to be really self-governing, they ought to adjust their expenditure including their contribution in common interest of India " to materialise.

4. It is also to be noted that the Land Revenue head which was equally shared between the Bombay Presidency and the Government of India has not proved a growing source of revenue and the loss of a share in the income-tax received has proved to this Presidency a great handicap, because it is rightly recognised, that income-tax is merely the industrial and professional complement of the Land Revenue in the case of a large commercial and industrial Presidency like Bombay. It has proved a growing source of revenue in this Presidency inasmuch as the contribution now amounts 8 to 9 crores a year, which is an increase of almost cent. per cent. as against an average of about 8 per cent. in Land Revenue receipts.

5. The working of the Act so far has not encouraged any belief in the power of individual initiative, inasmuch as, it is found that, even on vital matters, Indian members have failed to make an impression. There are instances in which, not only the opinion of Legislative Councils are flouted, but even the policy of the ministers is hindered and not allowed

full play, without friction and unnecessary and avoidable delay. The question of mass education and technical education, the pivot of progress, is in no province yet satisfactorily solved. The question of mass education in particular lies at the root of all our reforms. The object of Mr. Gokhale's primary education bill which was defeated in 1911 and of subsequent movements towards compulsory primary education was that " responsible Indian thought realised that the rate of progress from a bureaucratic form of Government to a democratic form must be largely dependent on the evolution of a popular electorate, capable of exercising the franchise and so ultimately on the rate of expansion of the literacy of the masses ". In Bombay Presidency two serious attempts were made by passing into law two enactments, popularly known as Patel's Compulsory Education Act of 1918 and Dr. Paranjpye's Act of 1923. The first proved unworkable and the latter is being probably strangled on the pretext of inadequacy of funds. Similarly, a Committee was appointed in the very first year of the Reforms Council presided over by Sir Vishweshwaraya for fostering the growth of technical education. The committee made a valuable report and in spite of every effort in the Legislative Council to induce the Government to take action on the report, the Government failed to do anything in the matter. Lastly, the size of electorates for Council election which works out at two per cent. of the population is described in England by the opponents of reform as being so narrow and small, as not to deserve the grant of full political powers. Then again, introduction of a communal system of election has encouraged the policy of " divide and rule " which is destroying the unity and utility of the local Council in a remarkable measure. The absence of any satisfactory literary tests for membership of Councils, whether in English or Vernacular, is also responsible for filling the Councils with 20 to 30 per cent. of members who are unable to follow the Council proceedings intelligently with the inevitable result that all these factors are proving the inefficacy of the Council vote and thus the present Councils are unable to change the bureaucratic nature of Government even in respect of every day administrative problems. The right of putting questions for eliciting information is being undermined by evasive replies. As regards resolutions, the non-official members of the Council were considerably handicapped owing to an unequal division, arbitrarily made, of the time of Council, between official and non-official work. Several resolutions passed by the Council were not given effect to by the Government. The cumulative effect of all this has been to demonstrate that local Councils are unable to make any impression on vital matters affecting finance or of every day administration.

6. Now, the Provincial executive under the Government of India Act is divided into reserved and transferred departments and, in determining this structure of the executive, the duties with which it had to be charged have to be taken into consideration. It was argued that complete responsibility for a Government could not be given immediately without inviting a breakdown, and as only some responsibility had to be given at once, some departments were transferred to the control of ministers. This responsibility is defined " as consisting primarily in amenability to constituents and in the second place amenability to the Council ". Therefore, some functions of the Provincial Government have been made over to popular control and entrusted to ministers and other functions kept in official hands. The machine of Government was, however, intended to be unitary and not dual both in its legislative and executive aspects ; but,

in practice, this has completely broken down and no words are necessary for condemning dyarchy or the dual form of Government, for it has been condemned on all hands and held to be a dismal failure. This is mainly because the Governor has not occupied the position of a purely constitutional Governor bound to accept the decision of his ministers. It was hoped that the ministers would gladly avail themselves of the Governor's trained advice on administrative questions and he was expected to refuse assent to the proposal of his ministers only when the consequences of acquiescence would be clearly serious. But, in actual practice, it has been quite different in spite of the Instrument of Instructions, as will appear from the few instances cited in paragraph 8 later on.

7. It has been already observed that the scheme of the Act and the rules made thereunder put the ministers in an anomalous position. The Governor still *de facto* administers transfered subjects and the ministers only advise and thus they are often put in an awkward position in the Legislative Council. It is indeed true that all this is due to official control from above not being relaxed to the degree which was intended and, as official control from above is incompatible with popular control from within, the discussions in provincial Councils have naturally produced no beneficial effects.

8. The language in the section 46, *viz.*, " in relation to transferred subjects by the Governors acting with the ministers " virtually makes the ministers advisory with the result that the advice of the minister may not be accepted. But as he is responsible to the Council, his position is anomalous, since he renders himself liable to be censured for not carrying into effect the express desires of the Council. Several instances can be quoted of which the following are a few samples :—

1. Minister of Excise and Forests in our Presidency fixed up the personnel of a committee to inquire into forest grievances in consonance with the desire of the Council after a good deal of deliberation and personal visit on the spot. One of these persons was objected to and the Committee was never appointed and the solemn promise of the minister had to be broken, because Government took a long time to waive the objection and then the gentleman concerned refused to serve on the committee.
2. On several occasions the advice of ministers for filling of posts in transferred departments was set at naught even to the extent of a minor appointment of a lecturer of a law-school.
3. Sometimes the Minister's advice on questions of policy is known to have been accepted only after threats of joint resignation.
4. Minister's advice for Indianising services more rapidly at least in transferred departments seems to have been disregarded as it has not materialised.
5. Minister's advice for the transference of the control and management of administrative departments to local Boards seems to be unnecessarily delayed.

The rules and orders made under section 49, clause 2, are not published ; and it is not thus possible to state how far in actual practice they have violated the spirit of the Government of India Act in transferring real responsibility. But, from what has been said above it is clear that they have not conduced to the acceleration of the pace of the reforms. The

words, " interests of his province or of any part thereof " in section 50, clause 2, are known to have been sometimes narrowly interpreted, and therefore they must be replaced by some words as would give it definite meaning.

9. As to the working of the executive machine as an unitary Government it was intended that the executive should cultivate the habit of associative deliberation so as to present an united front. It was therefore suggested that as a general rule, it should deliberate as a whole, but in our province this was an exception and not the rule. As a matter of fact it is the impression in this presidency which is strengthened by the utterances of at least one minister that the ministers were not as a rule jointly consulted in the transferred subjects. Moreover, the intention of instilling the sense of responsibility amongst Councillors was to be carried out by the constitution of Standing Committees in order to familiarise elected members, besides ministers, with the process of administration and to give scope for intimate relations between the executive and the Legislative bodies. The idea was that a Standing Committee was to be attached to a department or groups of departments under the control of a minister or executive Councillor. The Committee was to be elected by the Legislative Council from amongst their own members. Their functions were advisory and carried no administrative control of the Department. They only discussed and recorded opinion upon all questions of policy, all new scheme of expenditure above a fixed limit, and all annual reports on the working of the departments. For instance, there was an advisory committee attached to the department of industries, nominated by the minister in charge, which did very useful work in checking unnecessary expenditure. This recommendation was not carried into effect, and so also the recommendation of an Under Secretary on the model of Parliamentary Secretaries. If we add to this the further fact that in Provincial Secretariat Indianisation is going on at a snail's pace, there being only one Indian I. C. S., Deputy Secretary in a cadre of about 14 officers, it is no wonder that the Indian aspirations are not satisfied by this reform, as it has not in substance carried the Indians any further on the road to responsibility. If we add to this the further fact that in our Presidency even an opportunity of filling up vacancies of one of the ministers and executive Councillors in order to train up other Indians was deliberately not taken advantage of, the inference is clear that the spirit of the Act has been violated in important particulars. The consequence of this omission to fill the vacancy of a minister was that, for about 6 months some of the important transferred subjects were run by the Official Secretaries, as the Minister formally in charge of them was over-worked.

10. With reference to the announcement of August 20, 1917, the definite policy of His Majesty's Government was then declared to be " the increasing association of Indians in every branch of the administration " and substantial steps in this direction were to be taken as soon as possible. Now that four years have elapsed, it will be very interesting to note how far in the Bombay Presidency this promise has been kept. At the outset, it is necessary to observe that this is an integral part of the scheme designed to take Indians on the road to responsible Government. Bearing this in mind, the importance of the necessity of gradual development of Indianisation of services is clear. The main spring of Government policy is usually the Secretariat. Before the reforms there was no Indian Secretary in the entire Secretariat. There is now only one Indian Deputy Secretary

in a cadre of 14 who is recruited from the Indian Civil Service. Apparently, no more Indians are found fit in that premier service and none from the Provincial services in the several branches of administration. Next in order come the High Court Judgeships, divisional commissionerships and headships of several departments. In the recruitment of High Court Judgeships it will be admitted that there are now at least 4 Indians. In the divisional commissionerships and amongst the several heads of the departments there is not a single Indian and none is likely to occupy that place permanently for a period of at least 10 years. It may however be stated that one Indian I. C. S. held the acting appointment of a divisional commissionership. In the District staff, formerly there used to be two Indian Collectors and two or three Indian District Judges and the present number is almost the same. In the other branches of the administration excepting the Engineering Department there are very few Indian Heads. The History of Indianisation of services is very disappointing reading. If we remember that the old statutory service was mainly intended for recruiting suitable Indians so as to bring up their number to 30 per cent. of the cadre since about 1880, that intention has failed to materialise even after a lapse of about 40 years. The progress of Indianisation is thus disappointingly slow and it must be admitted that an important step towards realization of responsible Government has yet to be taken.

11. The Council of our Association will now apply to the Reform Act another test. The authors of the Montagu-Chelmsford Report have noted certain defects in the Morley-Minto Reforms and rightly put forward in the forefront the Reform of local self-Government. Let us see, if the four years period shows any substantial advance even in this direction. As far back as 1908 men like the late Mr. Gokhale anticipated that Indians should soon be given full control and management of local affairs so that it might prove an excellent training ground for political education. Even the joint-report lays down the first formula that " there should be as far as possible complete popular control in local bodies and the largest possible independence for them of outside control." This expectation has not yet generally been fulfilled. Emancipation of local bodies from official control was characterised as the base of the edifice for learning responsibility. But, it is to be regretted that the control and management of local bodies, especially of local boards, is still in the hands of officials and they are still run as Government departments. Next to this comes the problem of every day administration, Legislation and Finance. As regards Legislation, in the Morley-Minto Reforms non-official majority possessed a voice in the province ; under the new Reform Act with the substantial majority of non-officials their voice has not yet gained any substantial strength. This result is partly due to the fact that the Councils are so constituted that communal considerations take precedence in the discussion of important matters of policy. Then the problems of mass education, sanitation, peasant indebtedness, technical education are still as far off from any satisfactory settlement as in the days of Morley-Minto Reforms. The question of liberalisation of provincial finance and its adequacy has been already considered and is the main cause of public disappointment. The widespread admission of Indians in greater numbers in the public services is still as far off as ever and the recruiting of provincial services is not put on satisfactory basis. Racial differences in every day administration are still existing. Development of Agriculture and of Provincial Industries is still as far off as ever and the wheels of Technical Education are moving very slowly, if at all. The separation of executive and judicial

functions, Prison Reforms, settlement of Land Revenue problems, of Forest grievances, of Excise and expansion of medical relief are still awaiting solution though these matters more or less pertain to the transferred department and on which there has been ample discussion in the local Council and on the public platform, with no tangible results. Is it any wonder that all this should be taken to indicate the failure of the Reforms Act which was mainly intended to cure all such evils ?

12. Our Council will now proceed to examine the provision of the Government of India Act, so far as they deal with the powers of local Government, Part V, section 45, 45A, 46 and 50, deal with these powers and sections 72D, 80A and 80C, deal with local Legislatures. In view of the criticism made above, the Council will proceed to examine these provisions and show how far they have succeeded in carrying into effect this scheme of the Act in putting the Provinces on the road to responsible Government. It was hoped that the reforms inaugurated in 1919 would be carried out in the right spirit both by Government and non-officials. Government was expected to be sympathetic and broad-minded, and Indian leaders sincere and public-spirited. These conditions were postulated for the success of the transitional constitution. It was recognised that in inaugurating them Indians were supposed not to remain content with an alien executive and some Indian leaders looked forward to producing deadlocks as a means of bringing the Executive under the control of Legislature. The advance was not intended to accomplish anything by first making the Government impossible. On the contrary the path of progress was supposed to lie in another direction, *viz.*, in the possibility of smooth and harmonious progress pursued in a spirit of mutual good-will and devotion to common interest. So far as the non-official element in the first Reforms Councils in Bombay was concerned, it entered the Council chamber permeated with this spirit, but there was no satisfactory response from Government. The non-officials tried to work the Reforms as whole-heartedly as they could but they were often obstructed by the executive. The Act is to be judged by these tests and if the spirit is proved to be wanting on either side, it must be held to require an amendment in important particulars.

13. Section 45 which provides for relations of local Government of India appears to have been worded in too general terms. If provincial autonomy was the goal, the wording " of superintendence, direction and control in all matters relating to Government of its province " must be materially modified. These words have had the practical effect of too wide and severe control which it was intended by the Act to avoid. For instance, the rule about all legislative measures requiring sanction of the Government of India has the effect of retarding provincial legislation and sometimes the sanction takes too long a time in coming and in the meanwhile necessary legislation is being delayed and unnecessary hardship has to be suffered by the people. Some instances of these can be quoted, such as the introduction of necessary measures of the Cotton Control Act and Repeal of the Deccan Agriculturists Relief Act.

14. Section 72D provides for business and procedure in the Governor's Legislative Councils. The Section requires to be changed, so that some effective power of the purse to local Councils for the appropriation of moneys should be given. So also the provision for the introduction of private bills should be more liberal than now, and be based on the practice obtaining in the House of Commons. Section 80A should be revised so

that it may widen the powers of the local Legislatures in the directions pointed out above. Section 80C virtually leaves the power of initiation of financial proposals to Government. The words "any measure affecting the public revenues or imposing any charge on those revenues" have sometimes been so strictly constructed as to undo the effect of any resolution or enactment which the Council may have passed. Under this power, even a resolution for discussing payment of an adequate grant to secondary schools, under the Grant-in-aid Code was stifled. So also a provision to provide two-thirds of the recurring expenditure provided for in section 13 of the Bombay Compulsory Education Act is expected to share the same fate in practice. Lastly, the appointment of the Public Services Commission as contemplated under section 96C is unnecessarily delayed with the result that the pace of Indianisation is retarded and the Provincial services are being recruited more from racial and communal considerations than of merit alone.

15. With reference to rules made under the Act so far as Provincial Councils are concerned, they are framed under sections 45A, 80A, clause 3, 81A and section 129A of the Government of India Act. Rules under section 45A are those which are known as Devolution Rules and rules in parts I, II, III and V make necessary provisions for the local Councils. Examining these rules, rule 10 in part I, which regulates the exercise of minister's authority over members of all India and Provincial services gives the minister absolutely no power and thus the ministers are helpless in exercising necessary control over the services. Under part III, section 36, clause 2 a salutary provision for the appointment of a joint Financial Secretary is not availed of. Section 49, clause 3 which provides for the limitation of control by the Governor General over transferred subjects though nominal is however effective and irksome enough when exercised through the Provincial Governor. Rules made under sections 80A and 129A and especially section 2, clauses 1 and 2 appear very restrictive in character and thus the independence of ministers in matters relating to transferred subjects cannot be real.

16. The Council of our Association beg to observe that in view of the criticism offered above and the experience gained in the first Council, the important question for consideration is whether the changes that we would desire to be made in the constitution are possible under the rule-making powers of the Government of India Act. The criticism proves that the first principle, laid down in the Act, was the progressive realisation of responsible Government and the province was chosen as the unit in which it was to be realised. Within that unit immediate and complete responsibility, in local affairs, so far as is possible, was intended to be given but as a matter of fact even this modest step is not attained. Then, responsibility within Provincial Governments in transferred subjects, at least, was intended to be real but it has been shown that it is far from being so. Under these circumstances, there is only one irresistible conclusion, and it is this, that the essential condition which was postulated for the scheme was a spirit of good-will on the part of Government, which has failed to materialise and the Council of our Association are convinced that there is no hope, in view of the past experience, to expect any favourable amendments by way of rules, which would be able to surmount the difficulties and really put Indians on the road to responsible Government.

17. The recent utterances and writings of British statesmen indicate a desire on their part to arrest the further constitutional progress, and

even in effect to go back upon the pledge of granting Responsible Government to India. Earl Winterton, the former Under Secretary of State for India, recently observed that " He found himself as far off as ever from realising the conditions under which the territory which is known as British India will one day exercise the function of self-Government within the Empire." He however, conceded that " the small circle embracing the politicians and Administrators among the Indian Races, contains quite as high, if not higher proportion of men of great ability and social charm, as that of similar circles in other countries. They are delightful acquaintances and in conversation their quite-witted intellect enables them to outstrip the more lumbering British minds. This admission of Indian ability is, according to him, more than counterbalanced by insuperable difficulties such as (1) Hindu-Muslim and other communal feuds, the difference in interests within the British provinces and the Indian states and the position of the depressed classes and other minorities in general. Earl Winterton concedes that the first two difficulties are not quite insurmountable, but he believes the third one " as one supreme bar to further progress." Our council believes that if Statesmanship be forthcoming to get over the first two difficulties, which are grossly exaggerated, it cannot be argued that a possible solution for the third difficulty cannot be found.

18. This short analysis of the difficulties for and against taking further steps in the direction of responsible Government in the Provinces shows that power must be entrusted to the people fully and wholeheartedly and this can only be done by liberal revision of the Government of India Act in the following directions.

1. The central idea of " Civil Servants " being masters must be modified and the rule must be observed that in an unitary form of Government which is recommended by our Council, a public servant must not be held eligible for the position of either the Governorship or an Executive Councillorship.

2. This does not necessarily mean that public servants in general should be placed at the mercy of the Government that may be in power and therefore suitable and ample safeguards for protecting their interests should be provided for.

3. Complete responsibility in the Provinces should be achieved by the abolition of dyarchy and the establishment of an unitary form of Government consisting of Ministers owing responsibility to electorates so that the party-system of Government may be possible in the near future.

4. The idea of Provincial Councils being responsible to the British Parliament through the Government of India and the Secretary of State for India for purposes, not only of general policy or law and order but even in matters of every day administration is incompatible with the theory of Provincial autonomy inasmuch as, the present power of governance is ultimately to be transferred to the electorates and it is therefore necessary to give them real education so as to fit them up for wielding the responsibility of initiating the policy to be carried through their representatives in Council who, in their turn, are expected to exercise appropriate pressure on the Ministers that may be in power.

Synopsis of Part "A."

1. The Morley-Minto Reforms proved, within a short time of their inception, incapable of satisfying Indian aspirations.

2. The object of the present Act was, not merely to set up a dual form of administrative machinery, but to train Indians in the whole field of Government by opportunity to manage certain departments and to influence the administration of the rest, through ministers responsible to public opinion.

3. Control of finance is the root principle of real provincial autonomy. Owing to miscalculation in estimating the needs of the Province after the Reforms, and prodigal increase in the services pay, the reforms have broken down at the very commencement owing to the fact that no money was available for developing nation-building services.

4. The sharing with the Government of India the receipts under "income tax" in exchange for those under "Land Revenue" has severely handicapped this Province, which is predominantly a commercial and Industrial province, as the income tax has proved very much more expensive than the Land Revenue.

5. The denial of full play to ministers policies, smallness of the electorate, introduction of the communal principle in election, absence of any literary test for membership, are making the Council ineffective in changing the bureaucratic character of Government.

6. Dyarchy has failed because the Governor has not acted in the constitutional manner by confining himself in transferred departments merely to advising, and accepting as a rule ministers proposals.

7. Official control has not been relaxed to the extent intended.

8. Specific instances of cases in which the minister's advice has been disregarded.

9. The recommendations of the Joint Committee to increase popular contact with the administration by having joint deliberations of ministers and executive Councillors, attaching standing advisory committees of elected members to departments, appointing Council Secretaries from members, and increasing Indian element in the Secretariat have been ignored.

10. The progress in Indianising the services has been extremely disappointing.

11. Local bodies have not been freed from official control, in spite of the very great stress laid on the point in the Montagu-Chelmsford Report. Instances of the Reformed Councils' inability to bring about reform in several very important matters.

12. The conditions hoped for, for the smooth and harmonious working of the transitional stage, have not been realised.

13. Section 45 of the Government of India Act being worded in too general terms, has proved ineffective, in relaxing the Government of India's control to the extent desired.

14. Section 72D and 80 of the Act require to be amended in order to increase the powers of the local legislature in respect of finance and legislation.

15. The rules made under the Act, relating to Provincial Councils have very largely restricted the minister's control over transferred services.

16. Conclusion—that no real advance is possible except by a liberal revision of the Government of India Act.

PART "B".

The Government of India:

After dealing with the main defects ni the Bombay Provincial Government, the Council of the Association proceed to examine the constitution of the Government of India, with a view to consider what modifications become inevitable therein, in order to secure harmonious working of the constitution and the adequate fulfilment of the popular aspirations.

2. The Government of India has from its inception been bureaucratic in its personnel and autocratic in its powers. The first attempt to liberalise it was made under the Minto-Morley Reforms by increasing the popular elements in the Imperial Council and introducing an Indian Member into the Executive Government. After the three years experience it was observed that this change did not provide an adequate machinery for the expression and enforcement of the popular will. When the Montagu-Chelmsford Scheme was formulated, it was pressed upon the attention of the British Parliament by all political parties in India, that without introducing a large measure of responsibility in the Central Government, the Government of India could not be adequately liberalised and the harmonious working between the Central and Provincial Governments could not be otherwise secured. But all efforts in this direction failed owing to the basic theory that, except to a small extent in the provinces, Parliament could not give up its control over Indian affairs.

3. Experience has proved that this Government of India through Parliament, operating 6,000 miles away through the votes of the British Electorate, who have neither the means nor the desire to exercise sufficient control over Indian affairs, has always resulted in the actual administration being conducted by a bureaucratic Central Authority. It owned no responsibility to the people of India and the Secretary of State in actual practice, and hardly cared to enforce his policy on them, except in matters where British interests were directly involved.

4. The Montagu-Chelmsford Scheme attempted to remedy this situation by certain changes, which, though in themselves, sufficiently radical, were based upon the theory that the popular representatives could only exercise certain amount of *influence* but no *effective* control over the central administration. Under this scheme, the popular element in the assembly was very largely increased and three Indians were introduced into the Executive Government with a view to influence the decision of the Central Government both in the Executive and the Legislature. But this influence was circumscribed by the fact that the three Indians being in a minority, could not always necessarily prevail, and the authority of the assembly was limited by a second chamber and certain autocratic powers reserved in the Viceroy. Besides, the Secretary of State maintained his powers of superintendence and control, which, on certain crucial occasions, proved very irksome and irritating and nullified, whatever influence might have been exercised by the Indian element both in the Executive and the Legislature. The position of the Government of India was thus rendered anomalous, as it was expected to give effect to the aspirations of the Indian people and yet, could not override the dictates of the India Office from above. It was inevitable that this peculiar situation should justly render the Government of India

open to the charge of being "an agent of the Secretary of State" or "a subordinate branch of the India Office."

5. In the first two years of the last Legislative Assembly, the Government of India appeared to carry on its affairs without much difficulty, owing to its manifesting a real desire to meet the wishes of the popular representatives. How far this conciliatory attitude was due to the influence of the Non-co-operation movement or the presence of a liberal statesman like Mr. Montagu at India Office, the Council of our Association are not in a position to ascertain, but, in the third year of the Assembly the situation became distinctly adverse and the Assembly was continuously flouted, as in the matter of the Princes' Protection Bill and the doubling of the salt-tax. Consequently, when the recent elections were held, a new set of representatives were sent into the Assembly with a greater determination to enforce the popular will. These representatives had no other alternative under the anomalous situation created by the present Government of India Act than to resort to constant deadlocks with a view to render the smooth working of the constitution impossible. The present situation therefore demands that a radical change in the structure of the Central Government should be made in order to avoid the continual irritation and bitterness engendered by it between the Government and the people.

6. In making their proposals with regard to the Central Government, the Council of our Association desire to state generally that as in the provinces, the very existence of the system of the dyarchy constitutes an inherent defect of the constitution, so, in the Central Government, the absence of a large measure of responsibility is in itself such a grave defect that any generous attempt at tinkering with the constitution by the amendment of the Rules of the Government of India Act will not adequately meet the requirements of the situation. Hence our Council is of opinion that, assuming that a body of laymen is sufficiently competent to examine the working of the rules in actual practice, it would be a futile and superfluous endeavour, as their proposals, as stated below, must necessarily lead to a radical amendment of the Act itself.

7. In putting forward their proposals about the Central Government, our Council proceed on the assumption that, a full measure of autonomy in the provinces is an accomplished fact. The question would arise, as to how to modify the machinery of the Central Government so as to harmonise with the altered mechanism in the provinces, in order to give full scope for the exercise of autonomy therein, without restricting or hampering it by the Superior autocratic control from above. Experience of the last 4 years has shown that even in the narrow sphere of partial provincial autonomy in the transferred subjects, owing to the control exercised by the Central Government under their wide and elastic power of "Superintendence, guidance and control", the Provincial Government in the transferred departments must find their liberty curtailed and their responsibility to the elected members of the Legislative Councils materially circumscribed.

8. The relations of the Central to the Provincial Governments may be viewed in respect of the following matters. (1) Legislative powers. (2) Administrative control. (3) Financial autonomy. (4) Co-ordinating function of a Central Government. (5) General Superintendence.

9. (1) If we postulate legislative autonomy in the provinces, it stands to reason, that it should be open to the elected representatives in every province to frame their laws according to their requirements, without any restriction, in every sphere of life. But the present Government of India Act has curtailed their liberty in several respects. Assuming that it is necessary to reserve certain matters for all-India Legislation, it would be incompatible with our hypothesis of full provincial autonomy that such legislation should be forced upon the Province by the dictates of an autocratic Central Government. On the other hand, if such legislation is initiated by a responsible ministry and adopted by a popular assembly, the measure of autonomy in the provinces will become real, and only certain matters of an all-India importance will be transferred from one popular sphere to another and higher one.

10. (2) Similarly as things stand at present, the Provincial Governments have no real control over the all-India services, as they are recruited direct by the Secretary of State and their salaries being non-votable, neither the ministers nor the legislature can effectively deal with them. Our Council is of opinion that such effective control by the popular ministers is essential in the Provinces. If, however, it is necessary to retain the all-India services on valid grounds, it follows that they must be made amenable to a central authority which is responsible to the people. Their recruitment must be taken out of the hands of the Secretary of State and any independent tribunal like a public services commission, set up for their recruitment and otherwise dealing with them, must be made amenable to a responsible authority in the Central Government.

11. (3) Under the present Act, the powers of Provincial Government over their finances are very much restricted. If financial restrictions, in respect of levying certain taxes or raising loans or undertaking extraordinary expenditure are reserved in the Government of India, the grant of financial autonomy in the provinces will be a sham unless the powers so reserved in the central authority are not also exercised in a manner responsible to the people.

12. (4) Our Council is of opinion that it would be necessary to reserve certain functions in the Central Government, so as to bring about co-operation for a common purpose and economy of expenditure, in the administration of certain departments in the several provinces. But, this co-ordinating function of the Central Government can be rendered acceptable to the autonomous provinces if it is carried out by that Government after it is made responsible to the people.

13. The Council will now proceed to show how the defective constitution of the Government of India has, in actual practice, reduced their usefulness for the people, and keeps them constantly opposed to the popular will and brings them into unnecessary friction and ultimately breeds discontent among the people. Like the system of dyarchy in the Provinces, an irremoveable executive with a largely elected popular Assembly has no parallel in the British Empire. A popular chamber must be often tempted to obstruct an executive which it cannot bend to its will or turn out of office. Recent experience in the Legislative Assembly shows how the popular representatives were driven to this expedient. This is inevitable, as constitutional position of the Government of India is so inherently impossible that no special effort is at all needed to expose

this defect. The executive Government is, both in theory and practice subordinate to the Secretary of State who, in his turn is, in theory, responsible to the British Parliament. But it needs no special demonstration to show how this control of British electorate is illusory and the Secretary of State is therefore, in practice, an autocrat. Hence the executive Government at Delhi and Simla is constantly between the conflicting pressure of the Secretary of State on one hand and the Popular Assembly on the other. It is unable to justify its policy to the Assembly on occasions and the Assembly always chafe under the arbitrary control of the Secretary of State. The result is that the Central Government is often powerless to assume a truly national outlook or act in the true interest of the Indian Nation, even if they understand them. They have to face both ways and find themselves occasionally paralysed. Hence the only way out of this state of permanent deadlock is to transfer the responsibility from the Parliament to the assembly, at least in certain vital matters, affecting the domestic well-being of the Indian nation : for it cannot remain entirely irresponsible. If it is not subordinate to Parliament, it must become responsible to the people, for otherwise it cannot become responsive to them. The Council is of opinion that an irremoveable executive and a popular Assembly are inherently incompatible and cannot long remain stationary without advancing to a stage of full responsibility or relapsing into pure autocracy or a state of permanent paralysis. If the Government of India continue longer in its present anomalous position, it will bring itself more and more into popular contempt owing to its helplessness. If it appear constantly to run counter to the vote of the popular chamber, it will become a perennial source of breeding discontent among the people. If, by its present constitution, it was intended as a half-way house between autocracy and responsibility, the experience of the last 4 years ought to have satisfied them that their position is no more tenable without constant resort to their emergency powers, the exercise of which in themselves, become a fresh source of popular discontent.

14. The Council will now advert to the defective powers of the Legislative Assembly, which render its working ineffective and unsatisfactory from the popular standpoint. While the consent of the Assembly is required for every measure of taxation, its power of controlling the expenditure is so limited that it cannot become a w[illegible]ng party to taxing the people unless it can effectively deal with the proper disbursement of the revenues. Under the present Act and the Rules thereunder the Assembly is restricted from voting on the Military budget, the salaries of the All-India services and interest-charges on loans which limits its power of the purse to an appreciable extent. The Assembly has no alternative but to cripple certain departments by defeating the budget with regard to its establishment when it cannot touch the salaries of heads of those departments. The military budget is held sacrosanct and cannot be touched. The result is that the popular assembly is tempted to bring pressure on the executive by throwing out other useful and necessary items of the budget and even to resort to obstructive methods in the Provincial Governments in order to force the hands of the Government of India. Similarly, the Legislative powers of the assembly are not sufficiently wide. The popular representative ought to possess the power of bringing forward social legislation even affecting religious customs. The Executive may not attempt it, but there is no reason why the elected

members should not endeavour to secure social advance by legislation in matters in regard to which the Government has been so far indifferent. Then, as to the fiscal power of the Assembly, there is no reason why it should not be empowered to adjust its tariffs so as to secure the Commercial and Industrial progress of the country without the restriction of the Secretary of State.

15. Our Council are of opinion that if their proposals for larger powers being vested in the assembly is accepted, its strength must be increased to at least double its present size, so that every revenue district of the Provinces should be in a position to send at least one representative. Further, it is necessary that the franchise for electing members of the Assembly should be widened so as to make the popular chamber a true reflex of the popular will. Similarly, the franchise for the Council of State and its strength should be revised so as to make it more representative of the people. Otherwise, it will become a drag and a dead weight on the popular chamber and the object of a true chamber system will be frustrated.

16. If the above mentioned proposals for transferring responsibility to the popular chamber in the majority of departments now administered by the Government of India is accepted, it will necessarily involve the removal of the control of the Secretary of State for India in those Departments. Our Council are therefore of opinion that the control of the Secretary of State over the Government of India should be retained only with regard to such departments as are not transferred to responsible ministers and the India Office should be so reduced in size and powers as to conform to this change. The Secretary of State for India will then hold the same position and status with regard to the transferred subjects as is now occupied by the Colonial Secretary in relation to the self-governing dominions.

17. In so far as the above proposals for removing the defects in the working of the Act necessarily require an amendment of the Government of India Act itself, the Council of our Association consider it necessary to indicate briefly the nature and extent of the constitutional advance which is essential in order to give effect to their proposal. Such advance may be stated as follows :—

(1) That all subjects be transferred to ministers in the Provinces.

(2) That all departments now administered by the Government of India be transferred to a sufficient number of ministers with collective responsibility among themselves so far as these subjects are concerned and the Viceroy should occupy the position of a constitutional Governor-General with regard to them.

(3) That the military and defence and political and foreign portfolio be administered by the Viceroy and the Commander-in-Chief as at present for a definite period of twenty years, during which period, steps be taken to train Indians for discharging the duties of those portfolios.

(4) That an impartial tribunal be now appointed to estimate the minimum normal expenditure required for the proper administration of these portfolios and the Viceroy should retain the power of certifying the expenditure upto this

agreed minimum in these departments in case it is not voted by the Assembly. But any excess required ought to be approved of by the vote of the Assembly only. This minimum may be revised periodically.

(5) That the Secretary of State for India should retain the powers of control over the Government of India as at present only in respect of the portfolios mentioned above but as regards the departments transferred to ministers, he should occupy the same status and position as is now held by the Colonial Secretary with regard to the self-government dominions.

18. In conclusion, the Council of our Association beg to state that, in framing this memorandum in response to the announcement of the Reforms Inquiry Committee, they have not been unmindful of the necessity of examining the defects in the working of the Government of India Act and rules thereunder. But they realize that such defects, numerous though they may be, are really derived from the more serious defects in the Act itself and will continue, so long as radical defeats in the Act remain. The Council is convinced that it would not be possible to avoid the causes of friction and discontent or even to secure a smooth and harmonious working of the present constitution, unless the main causes which go to the very root of the constitution and are based upon its inherent defects are examined and remedied. The Council has therefore ventured to submit briefly such inherent defects as it is convinced that a superficial revision of the working of the Act will be of little avail.

19. Our Council desires to state that there is a section amongst its members who, in view of the recent resolution of the Legislative Assembly suggesting the holding of a round table conference, cannot assist in the present enquiry. But the council is of opinion that, as the Inquiry is going to be held, they should avail themselves of the opportunity of placing their views on the subject-matter of the Inquiry before the Committee.

Letter from the General Secretary, All-India Trade Union Congress, 5, Ruthfield Street, Fort, Bombay, dated Bombay, the 18th August 1924.

I have the honour to send you herewith a copy of the resolutions passed by the Executive Committee of the All-India Trade Union Congress, which met in Bombay on Sunday, the 17th August, under the Chairmanship of Mr. Dhoodiraj Thengdi. I beg to request your Committee to sympathetically consider the demands made in the said resolutions on behalf of and in the interest of labour in India and I hope that your Committee will be pleased to recommend their adoption. I may add that the Executive Committee of the All-India Trade Union Congress is the only body in the country which can speak authoritatively in the name of labour and, owing to some unavoidable reasons, it could not meet before the 17th instant. I, therefore, request your Committee to waive its objection in respect of the delay caused in sending the resolutions to them and take the same into consideration.

I should also like to request the Committee to call Messrs. N. M. Joshi and D. Chaman Lal for oral evidence before them, as per resolution No. 3. I may add that Mr. Joshi will be in Simla from the 24th instant.

Resolutions.

(1) Resolved that the Executive Council of the All-India Trade Union Congress do urge upon the Reforms Enquiry Committee the necessity of extending the basis of franchise for electing members for Central and Provincial legislatures, so as to give adequate representation to the working classes in the country and also urges upon them the necessity of giving adequate special representation to the organisations of labour in India as long as the basis of franchise is not sufficiently widened.

(2) Resolved that on the present basis the number of seats thus reserved for the working classes shall not be less than 12 for the Legislative Assembly distributed either according to provinces or according to industries and 6 each for Bombay and Bengal Legislative Councils, 4 each for United Provinces, Bihar and Orissa, Punjab, Madras, Burma, Central Provinces and Assam Legislative Councils.

(3) Resolved that the Committee be requested that Messrs. N. M. Joshi and D. Chaman Lal be asked to appear before the Committee for oral evidence on behalf of the Executive Council of the Trade Union Congress.

Memorandum by Sir Provash Chunder Mitter, ex-Minister, Bengal.

GENERAL.

I am definitely of opinion that dyarchy has failed although I claim that in my province I was one of those who worked dyarchy as successfully as it could be worked. I am further of opinion that the difficulties of running dyarchy will grow more and more in future. If necessary, I can give my detailed reasons for coming to this conclusion. For the present I shall content myself by setting out some main heads of reasons for my conclusion about failure of dyarchy. These are :—

(1) Dyarchy has failed because the conception is an impossible one—one part of the Cabinet being responsible to the elected majority in the Legislative Council and the other part to the Secretary of State. The elected majority, in their turn, have to depend for their election upon the votes of immature and gullible electorates.

(2) The Ministers are held responsible by the public and the Legislative Council even for measures which they might have condemned in the Cabinet. In a really responsible joint Cabinet Government this difficulty cannot arise. There the Minister in charge of the particular department, in which the alleged unpopular measure is taken, will either take steps to carry public opinion with him (and in that attempt his colleagues will join), or, if he finds that he cannot carry public with him, he will refrain from taking the action complained of.

(3) Finance being a reserved subject and as the Finance Member has not got to go out of office along with the Ministers the view-points of the Ministers and the Finance Member are often fundamentally antagonistic. When the Finance Member tries to place himself in the position of a Minister difficulties are lessened. When the Finance Member merely proceeds on the basis of rupees, annas and pies, the position of a Minister becomes extremely difficult.

(4) The Ministers, in actual practice, find it extremely difficult to enjoy that measure of initiative and freedom in financial matters without which successful administration becomes well nigh impossible.

(5) The financial difficulties in most of the provinces and specially in Bengal killed dyarchy. During my ministry the Government, of which I was a member, increased the resources of the Government of Bengal by over 2½ crores of rupees which meant over 25 per cent. of its net income and yet we could hardly make two ends meet. Expansion in the real sense of the word was out of the question although there were insistent demands by the sober section of the public with regard to expansion to which no really effective reply could be given by the members of the Government. We increased the resources of the Government of Bengal by passing 3 taxation Bills estimated to bring in 1 crore and 40 lakhs of rupees but which actually brought in about half of that sum and by heavy retrenchments. Taxation and retrenchment must necessarily make a government

unpopular and, if as a *quid pro quo* government cannot undertake any schemes of public utility, the position of the Government becomes extremely difficult when that Government has to depend upon popular vote for retaining its majority.

(6) Dyarchy means or ought to mean, under the constitution, real responsible Government in the transferred departments. The immaturity of the electorate, the tendency of the members of the Legislative Council to follow communal interests, the irremovability of the colleagues of the Ministers on the reserved side of Government, all militate against successful working of dyarchy.

(7) Dyarchy with a Legislative Council elected on the basis of communal electorates means a divided Cabinet with no real cohesive force to bind the members together. First there is the fundamental difference in view-point between the Reserved and Transferred sides of Government, added to it there are the inevitable communal differences.

(8) A true party system Government is difficult of achievement in the present state of Indian politics. So far as I can see this difficulty will increase more and more. My reasons for this assertion are :—

The only real party we have in the Legislative Council is the Swaraj Party. I say " real party," because theirs is the only party with definite principles and lines of thought to bind them together. However much I may disagree with the methods of work and the principles of the Swaraj Party I cannot ignore the truth that theirs is a cohesive party. That party is out to obstruct and by obstruction to destroy the present constitution. I am sorry to record the unpleasant truth that there is no *real party* to oppose this party. There may be a number of individuals or groups of individuals with no common definite principles to bind them together to oppose the organised Swaraj Party as occasion arises but these individuals or groups of individuals are not a party in the real sense of the word. Some of the Hindus and Mahomedans as also the Europeans, who attempt to oppose the organized Swaraj Party, have not tried to come to any common understanding as to their communal questions as the Swaraj Party has done with regard to the Hindus and Mahomedans in their party. The Swaraj Party has an organisation in the country and amongst the electorates. The individuals who attempt to oppose the Swarajists in the Legislative Council have no such organisation outside the Council, nor do they understand the importance of such organisation. The Liberals or Moderates, I am sorry to say, are no longer an organised party in Bengal. They were a fairly organised party in Bengal before the inauguration of the Reforms, but, amongst other reasons, their attempt to work dyarchy has killed their party. There are many opportunists inside and outside the Legislative Councils who call themselves Moderates and successfully pass as such before officials and non-official Europeans but who have never done anything to help the Moderates in their organisations. Further there has been in Bengal no real understanding and concerted action between the landlords and educated middle classes to join hands in forming an united moderate party. I am a link between the landlords and the educated middle classes. During the last 7 or 8 years I have tride my utmost to bring these two together, but, I am

sorry to say, I have not succeeded. Personally I am welcome in the landlords' organisations as also in the Moderate organisations of the educated middle classes but I have never succeeded in impressing upon both these classes the importance of joint and concerted action. In my opinion the fault lies with both these sections—the landlords and the educated middle classes who profess to hold moderate views in politics. Then again the moderates belonging to the educated middle classes are often doctrinaires, and are inclined to ignore patent but existing facts. Some of them are too fond of popularity and are weak in their principles. The landlords with rare exceptions are weak, indolent and incapable of looking after their real interests. The policy of Government with regard to landlords' interests have a tendency to alienate the landlords and the active Swarajists are not slow to take advantage of this. I am sorry to say that many landlords including some titled gentlemen are contributors to Swaraj Funds, and supporters of Swaraj organisation. Some of them say that they have to do this for self-protection and I can well sympathise with them for Government is either powerless or too weak to help them in the Swarajist campaign against the landlords. The net result of all this is that to-day that there is only one organised party to wreck the Reforms but no organised party to work the Reforms. I do not think, in the near future, the Liberal Party will be able to organise themselves. This is largely due to their own fault but there are reasons for this unfortunate position in causes and circumstances beyond their control, and for some of these reasons Government are perhaps unwittingly responsible. That being the position attempt to work dyarchy without a real party to suport it will only lead to very untoward results.

Holding the views that I do, it makes it rather difficult for me to submit helpful suggestions on the very limited scope of enquiry set out in the Resolution of the Government of India (no. F.-166-II-1924), dated the 20th June 1924. I shall, however, try to deal with the specific points set out in the Resolution so far as it is possible for me to do.

Point no. 1 of the enquiry—Difficulties or defects inherent in the working of the Government of India Act and the rules thereunder.

I shall enumerate the difficulties or defects :—

(1) The existence of a joint purse is a real difficulty. I suggest that the purse of the Reserved and the Transferred Departments should be separated. This I consider very important and absolutely necessary. The Government of India originally supported separate purse. Separation of purse will improve the relations between the Reserved and the Transferred Departments and will also minimise much preventable criticism by the members of the Legislative Councils and the Indian public against the Reserved Department. The purse should be separated on the basis of the sanctioned scale of expenditure of the respective departments on the 3rd of January 1921. To that should be added to the Transferred Departments two-thirds of additional resources of each province due to retrenchment or taxation and to the Reserved Department one-third in the Legislative Council of Bengal. This proportion was accepted by the Government of Bengal when taxation measures were passed in the Legislative Council of Bengal. In provinces (and such is the

case in most provinces including Bengal) where the additional resources or a good portion of it went to make up the deficit, the net surplus should be allocated to the Transferred Department till the two-thirds limit is reached. After the two-thirds limit is reached the one-third due to the Reserved Department should be allowed to it. The only sovereign remedy for mere destructive opposition and criticism is to turn the attention of the people to constructive work. This is impossible without funds and if funds cannot be provided then I am afraid obstruction and destructive criticism will inevitably increase. Without separation of purse it will be difficult for the Ministers to take that measure of initiative which is expected from them and without which they cannot hope to keep a party behind them.

(2) A financial secretary should be appointed to the Transferred Department who will be independent of financial control by the Finance Member in charge of the Reserved Department and will remain in charge of the separated finance of the Transferred Departments. One of the Ministers should be the Finance Minister of the Transferred Departments. If my suggestions be accepted, rule 36 of the Devolution Rules will have to be changed. In my opinion this is very necessary.

(3) It is also very necessary to appoint some members of the Legislative Council to assist the members and the Ministers in their work in connection with the Legislative Council. Their salaries, however, should not be a votable item. I know this is against doctrinaire popular demand but in the present stage of the political condition of the country and the mentality of the members and the expected jealousy of many of the members of the Legislative Council towards those who will be appointed as council under-secretaries this is very necessary. I have no objection to their salaries being fixed after discussing the question in a small committee where all parties may be represented. It is very necessary to have 5 such under-secretaries in a province like Bengal—two on the Reserved side and three on the Transferred side. In this country we have not yet clear-cut political parties nor sufficient party funds. It is necessary for the members and the Ministers to have the assistance of whips who have some position in the Government and in the Legislative Council. The appointment of these Council Secretaries will tend towards establishment of a more stable Government and will improve the position of the Ministers and the members. At the present moment the position of Ministers is getting more and more derogatory. If the position of the Ministers becomes derogatory it tends to make the whole Government contemptible. This suggestion will also have the effect of training some men in parliamentary work. These men need not be whole-time men. In the major provinces their salaries may be fixed between 5,000 to 6,000 rupees a year. In other provinces it might be less. Money expended on this head will be really helpful in establishing better relations with the Legislative Councils but I do not ignore the fact that many will raise the cry of useless expenditure.

(4) One of the great difficulties which the Ministers in most provinces had to encounter was the difficulty of financial stringency. This, I appreciate, was largely inevitable and was to a great extent due to world conditions after the war. Giving every allowance to these factors I am of opinion that the hasty and admittedly incorrect conclusions arrived at by the Meston Committee was largely responsible for the present, past and future difficulties in working dyarchy. Dyarchy or no dyarchy unless the provinces have sufficient funds allotted to them to carry on their normal expenditure on the date of the transfer of provincial responsibility to them, namely, the 3rd of January 1921, the forces of destruction will inevitably increase. The real chance of fighting these forces of destruction is, as I have already observed, to turn the attention of the public and the voters to constructive problems touching their everyday life. This cannot be done without money. Therefore from the point of view even of law and order, from the point of view of preventing or at any rate minimising political unrest it will be sound statesmanship to allot to the provinces enough money to carry on their responsibilities on the basis of their sanctioned scale of expenditure on the 3rd of January 1921. It is no doubt true that the Government of India has not available funds to hand over to the provinces what in common fairness and in justice it should have handed over to the provinces, namely, enough to carry on their responsibilities on the 3rd of January 1921. If in justice and fairness Government of India is bound to hand over such funds it will be for the Government of India to decide whether it will do so by retrenchment or by other means. Even if the Government of India have to adopt some means that will evoke hostile criticism amongst the politically minded educated classes, the solid mass of voters will appreciate money expended on their real and everyday needs. I may add that the financial policy of the Government of India during the last 3 years has pleased neither the educated classes nor the masses though it had to certify taxation and yet could make no money available for the benefit of the masses. It should be remembered that the majority of the voters are to be found amongst classes other than the educated intelligensia and the masses are not doctrinaires. This re-allocation of funds should be undertaken by a properly constituted committee in which claims of every province should be considered but no attempt should be made to raise provincial jealousies and the principle of allocation should be sufficiency of funds to carry on the responsibilities of each of the provincial Governments on the basis of their sanctioned scale of expenditure on the 3rd of January 1921, the date of the separation of purse.

(5) One of the difficulties in forming a party system of Government at the present moment is the tendency for political grouping to follow the familiar lines of communal interests. This in my opinion is one of the fundamental difficulties which makes formation of party Governments extremely difficult. It is necessary to minimise this difficulty and at the same time to take into account the pronounced opinion of a section of the Mohammedans about communal representation. I suggest that

special communal electorates should be done away with but a definite number of seats should be allotted to the communities from the general electorates. It will then be necessary for candidates for election to approach the voters of different communities. Without this party system will be difficult. I express my opinion on the point of doing away with especial communal electorates with some degree of diffidence as I realise that a section of my Mohammedan countrymen hold strong views on this point.

(6) The principle of collective responsibility of the Ministers should be made clear by parliamentary rules. One of the ministers should occupy the position of a chief minister or Prime Minister and he should be called upon to form the ministry. Instances are not uncommon where Ministers acted against each other.

(7) As regards transferred subjects the Governor should occupy the position of a constitutional Governor and his powers of interference with the Ministers should be taken away. With regard to points requiring joint deliberation between two halves of Government the Governor should have powers wider than that of a mere constitutional Governor.

(8) Provincial subjects should not ordinarily be subject to legislation by the Legislature of the Central Government. The restrictions as to the previous sanction of the Governor-General for introducing legislation in the provincial legislatures should be done away with.

(9) Whether dyarchy be retained or some other constitution be evolved it is very necessary in the transition period to limit membership of the Legislative Council to those who are really willing to work the constitution and whose object in entering the Legislative Council is not to destroy the constitution. It is difficult to provide adequate safeguards to effect this object but to my mind the difficulty is not insurmountable. I would add a clause in the form of the oath which members of the Legislative Council have to take that they should, to the best of their ability, try to work the constitution and will not in any way obstruct or hinder the working of the constitution (I am not attempting to use drafting language). If in spite of the existence of this clause in the oath some members break it there must be some authority to take action. That authority obviously cannot be the Government. I suggest that this power should be exercised by independent judges who have nothing to do with the Government. I suggest that every 5 years a tribunal should be elected by all the High Court Judges of India consisting of say 5 or 7 members who will deal with this matter. In order to minimise public criticism I would further provide that 3 out of 5 or 5 out of 7 as the case may be should be Indian Judges. I would provide in the rules that if any member of the Legislative Council is guilty of obstruction it will be open for any other member to file a petition before that tribunal alleging that a particular member has broken his oath. In order to prevent frivolous petitions I would provide that the petitioner will have to deposit a definite sum of money, say Rs. 2,000, along with his petition. This tribunal of the High Court

judges will deal with this matter. I would give this tribunal powers to remove the member if it comes to the conclusion that he has broken his oath. I would also give the tribunal power to direct that the offending member will be inelligible for membership of a Legislative Council say for the next three years. The details may be settled in framing the rules. I realise that my suggestion is not free from difficulty but it is very necessary to devise some means to prevent obstruction inside the Legislative Council and this is the best means that suggests itself to me.

These are some of the difficulties that I desire to point out but I again beg to emphasise that any attempt to work dyarchy will only create further difficulties.

My answers to point 1 (*a*) really dispose of point 2 clause (*a*) of the reference for if my suggestions are accepted it will merely be a question of drafting. My constructive suggestions really fall under clause (*b*) of point 2 of the reference, and I shall next proceed to deal with the same. Clause (*b*) contemplates amendment of the Act as appears necessary to rectify any administrative imperfections. The administrative imperfections, already mentioned, relate to the unworkable nature of the dyarchic form of the Provincial Governments. I, therefore, suggest that dyarchy should be done away with. In order to bring the suggestions within the terms of reference it becomes necessary, therefore, to examine the policy, purpose and the structure of the Government of India Act. They are :— (*a*) Increasing associations of Indians in every branch of Indian administration, (*b*) gradual development of self-governing institutions with a view to the progressive realisation of responsible government in British India as an integral part of the Empire, (*c*) this policy is to be achieved by successive stages, and (*d*) it is expedient to give the provinces, in provincial matters, the largest measure of independence of the Government of India which is compatible with the due discharge by the latter of its own responsibilities. Or, in other words, the policy and the purpose of the Act are to evolve self-governing institutions by successive stages and to give the provinces such independence as is compatible with safety.

The suggestions I am going to make are within the "policy" and "purpose" laid down by the Act. There remains the point about the "structure" of the Act. The structure of the Act seems to be that India is to be governed in the name of His Majesty, or, in other words, a definite position is given to the Crown. Next to the position of the Crown is the position of the Secretary of State with regard to whom the relevant and important provisions are contained in sections 19A and 33 of the Government of India Act, the former deals with relaxation of control of the Secretary of State and the latter with his control over the Governor General in Council. Next to the Secretary of State is the Governor General in Council, whose powers and duties are prescribed in the Act; and next to the Governor General in Council are the local Governments whose relations with the Governor General in Council are referred to in section 45 of the Act. I consider this to be essential features of the structure. I do not consider section 52 to be an essential feature of the structure. With these preliminary remarks I suggest the following alternative suggestions about the provinces :—

A. The provincial government should be an unified government of 5 members, at least one of whom should be a member of the Indian Civil

Service. The remaining members will be non-official elected Indian members of the Legislative Council. I will call all these members, including the official members, Ministers. All the Ministers will be removable by an adverse vote of the Legislative Council. But, in order to safeguard against constant changes in the personnel of the Government by snatch votes I will provide that the Ministers, officials as well as non-officials, will be removable by a vote of want of confidence specially moved and passed by 60 per cent. of the members present. The member or members of the Civil Service, who will be appointed Ministers, if they are removed by an adverse vote will revert to their original appointments or other suitable appointments. The non-official Ministers will have to go back to their private life. According to my suggestions, therefore, there will be no difference between official Ministers and the non-official Ministers. and both official and non-official Ministers will, therefore, try to appreciate, understand and influence the view-points of the Legislative Council and of the voters. They will also try to act together. Almost as a necessary corollary to my suggestions I will provide that the Ministers of the Government, Secretaries, Divisional Commissioners and the District Officers will be entitled to take part in politics during the transition stage at any rate. I will also provide for separation of judicial and executive functions. That will ensure that no officer discharging judicial duties will take part in politics. I will further provide that permanent officers other than those mentioned will not be entitled to take part in politics. In the transition stage it is, in my opinion, desirable that higher officers of the Government, some of whom have to form the policy and political programme of the government, while others have got to enforce such policy, should be free to take part in politics. It may be said that in no other country the permanent officers are allowed to take part in politics. This is undoubtedly true, but, in no other country permanent officials are allowed to form part of the cabinet government. From the point of view of smooth working of government I consider it very important to safeguard the just rights of Indian Civil Service and to give them a career. The Indian Civil Service forms the recruiting ground of Governors and members of Government. In the present constitution the Governor and the members of Government have to carry on the Government with a majority of non-official members. Therefore if the Indian Civil Service have to occupy these posts it is necessary for them to have a better training in Indian politics as also to allow them to take part in Indian politics. They will then realise the standpoint of Indians better than many of them do to-day.

Subject to this I will give full provincial autonomy to the provinces.

In suggesting full provincial autonomy to the provinces I am less apprehensive of obstructionist policy of the Swarajists than I am in dyarchic form of government. I will cite the present position in the Calcutta Corporation by way of illustration. That Corporation has, for all practical purposes, been captured by the Swarajists. But there they have to run the administration and they are to justify their acts before the public. A perusal of the Indian edited newspapers, English and Vernacular, will convince anybody that public opinion is veering against them. With the exception of the "Forward," the organ of Swarijists, all the other Indian edited newspapers of importance are attacking the Swarajist administration of the Corporation and so far as it is possible

to gauge public opinion, in the next election, non-Swarajists will be returned in a majority to the Corporation.

Alternative Suggestion.

B. If my suggestion A does not find favour I suggest as an alternative full provincial autonomy subject to the safeguard of a second Chamber. The Second Chamber is to act as a brake. I refrained from discussing details, but roughly the Second Chamber will occupy the same position with regard to the Legislative Councils in the provinces as the Council of State does to the Legislative Assembly.

But both with regard to Suggestions A & B, I would strongly urge my suggestion about retention of rules relating to the removal of obstructionist members. I have no delusions in the matter. Even if the Swarajists' demands of to-day are accepted and further Reforms are given I am almost certain that some other party holding more extreme views than the present Swaraj Party and fed by the lesson of successful obstruction will again try obstruction in the Legislative Councils and the Legislative Assembly. Therefore in my opinion it is of importance to stop obstruction inside the Legislative Councils and the Legislative Assembly.

As regards the power of purse I would give the right to the local Government to automatically restore the last year's budget (following the Japanese constitution promulgated in 1889) if the budget be thrown out by the Council and take away the present power of certification. This will mean that normal activities of the Government can be carried on in spite of irresponsible action of the Legislative Council but it will not be possible for the Government to expand its activities without carrying the Legislative Council with it. At the present moment it is possible to certify, even for purposes of expansion. That power I will take away.

Central Government.

As regards the Government of India, I will retain the present powers about the Army, Navy, foreign relations and relations with the Indian States ; but I will make only 50 crores of rupees for Army expenditure non-votable. In pre-war days the total army budget was 29½ crores of rupees. At the present moment it is about 65 crores of rupees. Many of India's political difficulties arise from want of money. At the same time I am one of those who firmly believe in the maintenance of law and order. If in pre-war days law and order could be maintained by an expenditure of 29½ crores I do not see why in spite of increase in expenditure due to economic causes 50 crores will not suffice. Subject to these reservations I will have a Cabinet similar to the Provincial Cabinet that I have suggested in my suggestion A. Some of the members of the Cabinet will be chosen from the permanent Services. The majority should be chosen from non-official Indians. Both the official and non-official members of the Government of India (I shall call them Ministers) will be removable by an adverse vote of the House specially moved for the purpose, but I would insist on a majority of 66 per cent. of the members present. I will take away the power of certification from the Governor General in all departments excepting in the departments of Army, Navy and foreign relations and relations with Indian States. But as I have already suggested I will

make only 50 crores of army expenditure non-votable. Anything above 50 crores will be votable. I will take away the power of certification and will give instead to the Government of India the power of restoring last year's budget automatically and will allow them to add, say 5 per cent., on the last year's budget should it be necessary in the opinion of the Government of India to take such an additional allotment for the essential needs of India. Within this allotment I will allow the Government of India to adjust its budget. To sum up my suggestions really mean a half-way house better suited to the present condition of India's political evolution. It will give the members of the Legislative Assembly something more than influence. It will give them some definite power. It will give a place to the members of the Indian Civil Service in the Cabinets of the Government of India and the Provincial Governments. My suggestions therefore come within the policy and purposes of the Act. I maintain that it also comes within the structure of the Act.

If, however, it be contended that the structure of the Act contemplates transferred and reserved subjects, with which contention I do not agree then I suggest that in the provinces all subjects excepting Police, Revenue and Political should be handed over to Ministers. In any view of the matter I would insist on Finance being a transferred subject, for without financial control experiments in responsible government is worst and futile. This surely can be done by the rule-making powers of the Government of India Act.

P. C. MITTER.

30th July 1924.

Supplementary memorandum by Sir Provash Chunder Mitter, *ex*-Minister, Bengal.

I desire to submit a supplementary memorandum. When I submitted my first memorandum on the 30th of July last I was under the impression that it was necessary to confine myself strictly to the terms of reference. I, therefore, attempted to bring my suggestions within the words "the structure, policy and purpose of the Act." From the reports published in the newspapers of the evidence of other witnesses it appears that the committee have decided to give a wider scope to their investigation or at any rate have allowed witnesses to travel beyond what I considered to be the scope of the enquiry. I feel that my suggestions, circumscribed as they were by my impression about the limited scope of the enquiry, did not perhaps correctly represent my views on the general question of constitutional Reforms. In Part I of this memorandum I desire to indicate what Reforms in my opinion should be introduced at an early date, if I am at liberty to treat the whole question as an open one. In Part II, I have discussed certain general questions which have an important bearing on the future political evolution of India and her Provinces and in Part III, I have referred to my experience of the working of reforms in my Province. There is another reason why I am submitting this supplementary memorandum. More than one witness in their evidence have made statements with regard to some of which I think it right for me to place my experience before the Committee. For example some of the *ex*-Ministers referred to their unfortunate differences with their Secretaries. I am happy to state that I and my I.C.S. Secretaries worked together smoothly and harmoniously. In the third part, therefore, I propose to place a fuller account of my experience as a Minister and the working of dyarchy in my province.

PART I.

CONSTITUTIONAL CHANGES.

Provincial Governments.

Subject to the safeguard of a revising chamber of the type indicated elsewhere in this note, I would give provincial autonomy to the local governments. The provincial cabinets in the major provinces should consist of a minimum of 5 members and if the legislatures agreed to a maximum of 7 members. There should also be not less than 3 and not more than 5 Council Under-Secretaries. I am in favour of fixing the salaries of the Ministers and of the Council Under-Secretaries by statutory rules. Their salaries should be fixed if not for all time at any rate for the first 10 years but it should be provided that the Ministers and the Council Under-Secretaries will have to resign if a vote of want of confidence be passed against them. In my opinion, it is essential that the Provincial Cabinet should have joint responsibility. Without joint responsibility it would be difficult to develop party system Further, joint responsibility amongst Ministers will be very helpful in bringing about a better understanding

in communal matters. From the administrative point of view joint responsibility in the Cabinet is also desirable.

The powers of the Governor should be strictly limited to that of a constitutional Governor. The present system places a Governor in a position of difficulty. He is a part of the party Government and at the same time above it. This anomalous position should not continue.

Financial Powers.—If the Ministers cannot pass their budget then pending the formation of a fresh Ministry and passing of grants by the new Ministry the Governor will have the power of appropriation on the basis of the previous year's budget but will be bound to call upon some leader of the House to form a Ministry within a fixed period of time.

Provincial Legislatures.—As I have already indicated there should be *two Houses* in the Provinces. The number of members and the electorates for the Lower House should be increased and at the same time the franchise should be widened.

Upper House.—The Upper House should be a revising chamber in the true sense of the word. The number of members and the electorates for the Upper House should be less than that of the present provincial councils. The franchise also should be on a higher basis. Where the electorate covers too wide an area or where the voters are too large in number, the system of electoral colleges should be introduced for election in the Upper House. I shall in another place deal with the question of franchise and composition of the two Houses.

Financial, Legislative and other Powers.—Subject to the limitations laid down in the constitution that may be adopted, the provinces should have full financial, legislative and administrative autonomy as also control of Services employed in the Provinces including members of all-India Services.

The Government of India.

I would have partial responsibility in the Government of India and suggest a Government on the lines noted below. The Cabinet of the Government of India should consist of 9 members including a member in charge of the military portfolio. Out of the nine, three may be officials. I am suggesting nine instead of seven, partly because in my opinion the partial responsibility that I have suggested will mean harder and more difficult work for the members of the Government of India, and partly because nine will be necessary from the point of view of the various interests, *e.g.*, the Service, the Hindu and the Moslem. Two-thirds of the cabinet of the Government of India should be Indians. The members of the cabinet of the Government of India should have the assistance of at least 5 Council Under-Secretaries. The principal duties of these Council Under-Secretaries will be to help the members of the Government in their council work such as drafting answers to questions preparing materials for their speeches in council and acting as whips for the Government party, etc. As the permanent Secretaries will be relieved to a great extent of their Council work their number may be reduced. These Council Under-Secretaries need not be whole-time officers. Their salary may be fixed at a figure between Rs. 750 to 1,000 per mensem. As I am suggesting some reduction

in the strength of the permanent Secretaries (whether Secretaries, Deputy Secretaries or Under-Secretaries) the appointment of 5 Council Under-Secretaries will not mean any tangible increase in expenditure. I lay great stress on the appointment of Council Under-Secretaries in any Council where the majority of the members are elected. The salary of the members of the Cabinet of the Government of India as also of the Council Under-Secretaries should in the transition period be fixed by a statutory rule. All of them however should be removable by an adverse vote of the House specially moved for the purpose; but I would insist on a majority of 60 per cent. of the members present. A permanent official who is a member of the cabinet and who has to resign because of such an adverse vote will be able to revert to some permanent office; the non-official member will of course have to revert to his private life. The cabinet of the Government of India will deal with all central subjects including Army, but excluding Foreign relations, relations with the Indian States and the Navy. These three subjects should be in the portfolio of the Governor-General himself and with regard to these subjects the control of the Secretary of State for India will continue. With regard to all central subjects except these three the control of the Secretary of State for India will be nominal. Gradually, as India develops into full-fledged dominion status the position and powers of the Secretary of State for India will become exactly the same as that of the Colonial Secretary with regard to colonies enjoying full dominion status. I would place the army under a civilian member of the Cabinet. The expert head of the army (the Commander-in-Chief of India or whatever designation may be given to that head) should no longer have a seat on the Cabinet of the Government of India. I would make a definite sum of money for army expenditure non-votable. I suggest 50 crores of rupees but I have no objection to the actual figure being settled by a suitable committee. If more than 50 crores be required the Government of India will have to get the assent of the Legislative Assembly. Out of the 50 crores I suggest that a sum of, say, 2½ crores be set apart for expansion of the Territorial Force movement and for improving facilities for Indianising of the officers of the Army. I set a great value to Indianisation of the officers of the army and to the expansion of the Territorial Force movement.

Financial Powers of the Government of India.—I would take away the power of certification and will give instead the power to the Government of India of restoring the amount of the previous year's budget. I would also give the Government of India power of taking an additional allotment up to 5 per cent. of the previous year's budget for '*the essential needs of India.*' But this additional 5 per cent. will be subject to the control of the Secretary of State for India. This power of taking an additional 5 per cent. I would abolish after a period of, say, 10 years.

Legislatures of the Central Government.—I would increase the strength of the Legislative Assembly and would put an age-limit of at least 30 for membership of the Legislative Assembly. Some of the electorates for returning members for the Legislative Assembly are too large and are absolutely useless for the purpose of giving training to the voters so necessary for healthy development of democratic institutions. Where the areas are too large and unwieldy I would have electoral colleges but I would retain direct election as far as possible.

Council of State.—I would increase the numerical strength of the Council of State, and would also slightly increase the percentage of elected members. I would put an age limit of 40 for membership of the Council of State.

Control of the Secretary of State for India.—The control of the Secretary of State for India should be reduced to a minimum. I refrain from going into details which should form the subject matter of a separate investigation. As a matter of general principle I would rather have a partially '*irresponsible*' Government of India than have India governed by a Secretary of State from England. I would reduce the control of the Secretary of State for India specially in the following matters, *e.g.*, Finance, Control of Services, Commercial and fiscal matters, and military administration. In military administration I would provide for a status to India similar to that of the self-governing colonies.

Secretary of State for India.

The powers of the Secretary of State for India should be curtailed and brought more into line with the power of the Colonial Secretaries with regard to the Self Governing Colonies. I refrain from discussing details, but my main point is, as I have already indicated, that the Government of India should more or less be the final authority in Indian affairs. The number of members of the Council of the Secretary of State for India should be reduced and that council should gradually be abolished.

High Commissioner.

The Office of the High Commissioner should be made responsible to the Central Legislature. This should be done either by a Parliamentary rule or by convention. I also suggest that with a change of the cabinet of the Government of India there should be a change in the Office of the High Commissioner.

Franchise.

I have some suggestions to offer about franchise. In my opinion the Indian voter at the present moment is often gullible and immature in his political opinion. This is due more to his inexperience than to anything else. There is nothing fundamentally wrong about his intelligence or lack of judgment. It is the declared policy of the British Government to introduce democratic institutions in India, and the Indians also are only too eager to have such institutions. How then are we to have democratic institutions in India with due regard to the safety of the body politic? The masses, as I have already said, are not yet fit and they cannot be fit unless they have an opportunity to exercise their judgment. But if they are allowed to exercise their judgment without proper safeguards they may end by doing great injury to the body politic, and on the other hand it would be moving in a vicious circle if we wait till the masses are really ready. We may in this connection remember the lessons of history. In most countries, successful democratic institutions preceded the fitness of the masses to exercise their franchise. Take England. There the country was ruled first by a limited oligarchy and then by a fairly large section of the middle classes, and only in recent years the masses have begun to come to their own. Throughout the history of England's political evolution it was a case of successful compromise between

the landed aristocracy, the rich capitalists, the cultured and educated middle classes, the energetic and self-made manufacturer, tradesmen and commercial men and latterly labour. Long before labour became any effective factor in the political field of England the mid-Victorian statesmen and those who succeeded them made the welfare of the masses an important plank in their political platform. This was perhaps one of the reasons why there is less bitterness between the classes and masses in England than in most continental countries. England did not wait for her democratic institutions till the masses were ready. Nor should India wait for that consummation. If she did there is likely to be more danger to her body politic than advance in democratic institutions with safe-guards. Although the masses are not yet fit, the classes in India are, comparatively speaking, fit to exercise their franchise. The classes in India —at any rate a large section of them—feel for the masses, and take a genuine interest in them. In view of all these considerations I suggest an *Upper Chamber* in all provinces whose electorates will be more or less confined to voters belonging to the classes. I have in view not an Upper Chamber of the type of the English House of Lords nor of "elder statesmen," as some people like to call our Council of State. I would aim at an Upper Chamber of the type of some of the smaller democratic European States. The franchise and constitution of the Upper Chamber of Agricultural Denmark appeals to me most as a suitable type for an Upper Chamber for our provinces. Taking this merely as a type we may modify it according to the varying needs and conditions of our provinces. If we have two Houses; the Lower House with a wider electorate and with a large number of members, and the Upper House with a smaller electorate and a smaller number of members, we shall have then in the two chambers of the Provinces representatives of all classes interested in the welfare of the Provinces. The Lower House is sure to act as a *check* if the representatives of the classes in the Upper House are inclined to act against the interests of the masses. On the other hand, if the Lower House swayed by enthusiasm or by passing whims of the moment come to wrong decisions there will be an opportunity for the Upper House to revise her decision. I would like, however, to emphasise again that the Upper House too should be a democratic institution, and should be used as a revising chamber in the true sense of the word and not as a *brake*. I would also like to have a second safe-guard—some suitable provision against obstructive policy inside the Legislative Chambers. In my first note of the 30th July last I have indicated an outline. I realise the problem is a difficult one, but it is certainly important to have some safe-guard of this type.

As regards election to the Legislative Assembly some of the electorates are so wide that it is practically impossible for any candidate to really approach their voters or to give them any training in the more difficult *All-India politics*. For example, in Bengal the Presidency Division consisting of 6 districts, and comprising an area of 17 thousand square miles with a population of about 10 lakhs; the Burdwan Division consisting of 6 districts, population about 8 lakhs; the Dacca Division consisting of 4 districts, comprising an area of about 15 thousand square miles, population about 12 lakhs are electoral areas of the Legislative Assembly. Where areas are so big, electoral colleges will be better. In some European countries a group of 100 or 120 votes are called upon to elect an elector without any mandate for electing any particular

candidate These electors meet together and vote for a particular candidate. If we have a system such as one indicated it would be easier for the candidate to address his electors and the elector will also be able to understand the politics of his candidate, and to train himself in the difficult questions appertaining to All-India politics. Corrupt practices will be less possible. Intelligent judgment is the very foundation and safety for democratic institutions, and for that purpose in the All-India constituencies I would strongly urge the introduction of electoral colleges specially in rural areas and such of the urban areas where the number of voters are too large.

CERTAIN OTHER SUGGESTIONS.

1. *Life of the Legislative Councils and the Legislative Assembly.*—In my opinion, the life of the Legislative Councils and the Legislative Assembly should be 5 years. Three years is too short a period. The members often take more than a year to learn their work and their experience is wasted by triennial elections. Moreover, elections are costly affairs and should not be unnecessarily repeated. Apart from the point of view of the members, it is more important from the point of view of the Ministers also that the life of the House should be 5 years instead of 3 years. As regards the Upper Houses in the Provinces and the Council of State I suggest a period of 7 to 8 years but the election of a portion of the members may synchronise with the life of the Lower House. This system obtains in some countries. It has the advantage of preserving continuity and at the same time introduces new blood.

2. *Separation of Purse.*—It is very important to come to a proper solution of the separation of the Central and Provincial funds. Had the dyarchic system started with reasonable allocation of funds to the Provinces, I believe inspite of its inherent difficulties it would have been less unpopular to-day. It is unjust to saddle infant legislatures with the responsibility of taxation to carry on *ordinary administration.* In Chapter III of the Report of Lord Meston's Committee on Financial relations it has been stated that the Committee felt obliged to leave each Province with a reasonable *working surplus.* They proceed to state further " the limit we have imposed on ourselves is that in no case may a contribution be such as would force the Province to embark on new taxation *ad hoc*, which to our minds would *be an unthinkable sequel to a purely administrative rearrangement.*" Our experience of the last 3 years shows that almost in every Province this unthinkable sequel has come to pass with the result that those infant Legislative Councils were compelled to impose taxation and to enforce heavy retrenchment to carry on the ordinary duties of administration and not for any purpose of expansion. Success of democratic institutions will depend on a large measure on *the willingness, ability and capacity of the people to tax themselves* and there cannot be any worse handicap than the Council taxing not for purposes of expansion for the good of the people but just for carrying on the ordinary administration. This mistake must not be repeated again. I suggest that a Committee should be appointed at an early date to investigate into this question. In the terms of reference it should lay down that each Province should at least have enough to carry on its administration on the seal of sanctioned expenditure on the 3rd January 1921,—the edate of the separation of the provincial and central purse. This Committittee should an *All-India Committee,* but before it embarks on its duties provincial committees

should also be appointed and the reports of these provincial committees should be placed before the All-India Committee. The All-India Committee when it holds its sittings should tour in the different provinces and in every province it should have one or two members co-opted, to represent the view-points of that province. I may mention that this was the system adopted by the Franchise Committee and the Functions Committee, but I would go further than what these Committees did and suggest that after the touring in the different provinces is completed the Central All-India Committee should hold its sittings and should have some meetings which the co-opted members from the different provinces should attend and will be allowed to take part in the discussions but should have no vote. Two-thirds of the members of the Central Committee as also of the provincial Committees should be elected, by the Legislative Councils.

3. *All-India Services.*—The control of the All-India Services should be taken from the Secretary of State for India, and should be vested in the Government of India. The safeguards contemplated in Section 96 B of the Government of India Act are, in my opinion, illusory. No legislative enactment can enable the Secretary of State or any other authority to produce an atmosphere without which a reasonable career cannot be afforded to a responsible body of public servants like the Indian Civil Service. We must try to create that atmosphere. I am of opinion that a Civil Service with a British element is very desirable from the Indian national point of view, but unfortunately a large section of my countrymen do not hold this view. Holding this opinion, I would like to put forward suggestions which can secure to the Civil Service a suitable career, pay and prospects. I lay more importance to the existence of a suitable career and a proper atmosphere. If we cannot secure these then mere increase in salary will not attract suitable young men from England. The most feasible methods to secure these as also the question of pay and prospects will be by negotiations with representative Indians at the time when the question of constitutional reforms is settled. The settlement of pay and prospects of the Civil Service should be for the present limited for a period of 20 or 25 years. The same committee or conference which will ultimately deal with the question of constitutional reforms should also deal with the question of the Civil Service and the British element thereof.

4. *Public Service Commission.*—In my opinion it is very necessary to appoint a Public Service Commission which will deal not only with the All-India Services, but to whom a right of appeal should be given against decisions by the Government of India and the local governments. If responsible Government in the provinces and in the Government of India precedes a properly constituted Public Service, then I apprehend there will be abuse of power, unnecessary appointments and perhaps even corruption. In other countries including England such a state of affairs was not unknown. I am, however, of opinion that Section 96 C of the Government of India Act requires amendment. All the Members of the Public Service Commission including the chairman should be appointed by the Government of India out of a panel elected by the Indian legislature. It should, however, be provided that no member of the Indian legislature should be eligible for election to the Public Service

Commission. The pay emoluments and allowances, etc., of the Public Service Commission should be fixed by a statutory rule and should be non-votable.

5. *Judiciary for constitutional questions.*—In my opinion it is very necessary to have an independent body of judiciary who will deal with constitutional questions. To those who are brought up in the atmosphere of English politics this may seem to be unnecessary. In England there is no written constitution as there the British Parliament is Supreme. There is no limitation to the power of the Parliament because it is the supreme authority there. But in countries where there is a written constitution which itself again is further circumscribed by statute, the legislatures of those countries cannot be styled as sovereign bodies like the British Parliament, so there is no real analogy between our Indian Legislature and the British Parliament. We are attempting to develop a federal system. We should, therefore, have not only a written constitution for the Indian Government and its Legislature but we should have also written constitutions for the different Local Governments and their legislatures. There should be some proper machinery for dealing with constitutional questions arising between the Executive and Legislative Functions of the Government of India and those of the Provincial Governments. This right of interpretation obviously ought to be exercised by a body of independent judiciary. I think the time has not yet come for the appointment of a Supreme Court in India to deal with ordinary litigations, but I am against authorising the Judicial Committee of the Privy Council in England to deal with constitutional questions. Apart from difficulties of delay and expense, the impartiality of that tribunal may be challenged with regard to constitutional questions. Such a challenge will give rise to racial bitterness which I am always anxious to avoid. I would therefore set up a Supreme Constitutional Court in India to be elected by all the High Court Judges in India either from Judges in Office or from retired Judges of the High Courts, but I would provide that two-thirds of the members of this Court should be Indians. The money required for running this constitutional Court should be non-votable and provided by statute.

6. *Board to settle economic questions between England and India.*—I am of opinion it is very necessary to have a Board to settle these questions. Some members of this Board should be nominated by the Board of Trade in England. Others should be elected by the Indian legislature. The Minister or Member in charge of Commerce and his Secretary should be ex-officio Members of this Board. This Board should be set up as soon as possible and should submit its report to the British Parliament on or about the time when the Royal Commission or Committee appointed to deal with Indian Reforms submits its report to the British Parliament. This report should also be placed before the Legislative Assembly which should be offered an opportunity to discuss and express its views. This Board should purport to deal with economic questions which are likely to arise between England and India, say, during the next 15 or 20 years. In the constitution of the new Government of India Act there should be a provision for a Board of Arbitration or a Board of Conciliation to deal with any question relating to conflict of economic interests between England and India other than those which have been settled by the Original Board or questions arising out of settlements arrived at by that Board.

PART II.

OTHER OBSERVATIONS.

In my opinion peaceful political evolution in India depends on two fundamental factors; namely, (*a*) *good relations and proper understanding between the Indian and the British, and* (*b*) *maintenance of peace in India.* What British India is to-day—with all her good and bad aspects—is due to these two fundamental factors which existed in a large measure in the past. Good relations and proper understanding is the real basis of every co-operation. So long as public life in India remained undeveloped, co-operation was easily achieved. With the development of public life, mutual criticism and the seeds of misunderstanding gradually appeared. The misunderstanding, however, was within some measurable limits. It was only during the course of last 5 years that the misunderstanding increased in a large measure. This is due to various causes,—the Government of India Act being one of them and want of adaptability to changed conditions being another. It was only after the Government of India Act of 1919 was passed that symptoms of want of policy on the part of the Executive Government came to appear. This was inevitable because both in the Government of India and in the Provincial Governments the Executive Government have to depend on the non-official majority in the Legislative Councils. In the Government of India, *the Executive or wholly irremovable and irresponsible* and in the Provincial Governments with regard to the more important functions of Government, the Executive occupy a similar position of *irremovability and irresponsibility.* This state of things means that in many cases, the Executive do not like to accept the opinion of the majority in the Legislative Councils and yet cannot induce the Legislative Councils to accept their opinion. On the other hand, the majority in the Legislative Councils do not often accept the opinion of the Executive. Existence of such a state of things within the machinery of the administration of the state must lead to a policy of drift. It must mean that in many cases, the Executive Government will be unable or unwilling to offend the Legislature. The Legislature also in the absence of a responsible and removable Executive must become more and more restive. This should not be allowed to continue. I see all round me signs of disruption of society and negation of peaceful evolution. I find in most of the Provinces in India a Government divided in counsel,—a Government that have almost ceased to function and a Government without a policy. All this to my mind is the direct result of the present system. In one Province, I find that the Government is unable or unwilling or apprehensive, put it how you like, to enforce the orders of a British Court of Justice, and to take definite steps to protect its own officers. The remedy of this state of things lies in responsible Government.

With regard to my views on other general questions relevant in the present enquiry I have explained some of my ideas in the note attached which is annexed herewith and I respectfully ask the Members of the Committee to peruse the same as a part of my written memorandum.

PART III.

MY EXPERIENCE OF THE WORKING OF DYARCHY IN MY PROVINCE.

I would being by saying that along with other Indians and Europeans, I was one of the signatories of the '*Joint Address*' presented to the Right

Hon'ble the Secretary of State dated the 17th December 1917. This '*Joint Address*' is published in Appendix III of Lionel Curtis's '*Letters to the people of India.*' In that '*Joint Address*', we, the signatories consisting of Indians and Europeans, suggested a scheme the outcome of which was the dyarchic form of Government in the Provinces as embodied in the Government of India Act of 1919. I, therefore, took up dyarchy with all preconceived notions in its favour. When I accepted office as Minister I certainly thought that given the necessary good-will, mutual forbearance, and understanding by each half of the Government of the difficulties of the other half, dyarchy was not only possible but capable of successful working. Soon after joining Government I realised that the system was unsatisfactory and unworkable. But apart from the inherent defects of dyarchy its failure to fulfil the expectations of the people has made it so unpopular that it can no longer be run as a democratic institution. This failure is due as much to its inherent defects as to the financial difficulties under which it had to work in all Provinces and specially in Bengal. If those financial difficulties be removed in future and if other defects be remedied even then it cannot be successfully worked any more as a democratic institution.

Financial Difficulties of Bengal.

In September 1920 and before I became a Minister, the *National Liberal League of Bengal* of which I was then a Secretary, submitted a representation in which the League pointed out that the deficit of the Provincial Government of Bengal would be over two crores of rupees. Sir Surendra Nath Bannerjee was the President of the League and I was the Secretary. We therefore, accepted office with full knowledge of the financial difficulties, but we had confidence in the sense of justice of the Government of India and trusted that as the Joint Parliamentary Committee had commended the peculiar financial difficulties of Bengal to the special consideration of the Government of India, that Government would deal with Bengal justly and sympathetically; but I regret to say that our faith was not justified by the subsequent decision of the Government of India. Apart from the inherent difficulties of working of dyarchy successfully the unjust settlement of the Meston Award killed it in Bengal.

The Budget of the year 1921-22 was framed before we accepted office. It was a deficit budget; the deficit being over two crores of rupees. We had no hand in the preparation of this Budget. Out of our short terms of office of 3 years for one year we had to work with a deficit budget in the preparation of which we had no voice. We explained our position with regard to this Budget to the Legislative Council. The majority in that Council had confidence in us and they had every faith that we would do our utmost not only for improving the financial adjustment of Bengal but that in the following year after a revision of such adjustment we would place a satisfactory budget before the Council. We pressed our views before our Government and both halves of the Government of Bengal and His Excellency the Earl of Ronaldshay took up the problem of securing the Financial Justice for Bengal with great earnestness and a strong representation was made to the Government of India. Later on a deputation appointed by the Bengal Legislative Council

waited on His Excellency the Viceroy and the Governor-General of India in September 1921. The deputation was headed by the Hon'ble Mr. J. Kerr (now His Excellency Sir John Kerr) the other Members of the deputation being Sir Surendra Nath Bannerjee, myself, Mr. Surendra Nath Mullick and Mr. Fuzl-ul-Huq. Before we were received in deputation by His Excellency the Governor-General, we had informal conferences with the then Finance Member of the Government of India, the Hon'ble Sir Malcolm Hailey (now His Excellency Sir Malcolm Hailey) and his Secretary and other Members of the Government to whom we pointed out our difficulties. In these informal conferences with the Finance Department of the Government of India, the position was accepted that the deficit of Bengal for carrying on its ordinary administration was about 1 crore and 30 lakhs, but in spite of our satisfying the Finance Department of the Government of India the only relief that we got was the remission of our contribution of 63 lakhs for a period of 3 years only. My politics and those of my esteemed colleague Sir Surendra Nath Bannerjee being that we should try to work to the best of our ability what we get and while so working press for improvements; we approached the position created by the adverse decision of the Government of India with courage and tried our utmost to make the best of the situation. In our effort, I am happy to state, we received every help from our then Governor, the Earl of Ronaldshay and our then Finance Member Sir John Kerr. Within less than a month of our return from Simla, the Government of Bengal on our initiative retrenched the Budget already passed by the Bengal Legislative Council by 89½ lakhs of rupees out of which 83 lakhs was retrenched from the Reserved Department and 6 lakhs only from the Transferred Department. It was further decided that the retrenchment from the Transferred Department would be automatically restored as soon as finances permitted. This fact was announced by His Excellency Lord Ronaldshay in his Speech to the Bengal Legislative Council on November 21st 1921; but this retrenchment and the remission of 63 lakhs was not enough to wipe out the deficit of the Bengal Government for running its ordinary administration. So, we next proceeded to take steps to increase the resources of the Government, and we decided to introduce three Taxation Bills, *e.g.*, to increase the taxes on judicial and non-judicial stamps by about 50 per cent and to impose a new tax on amusements. These Taxation Bills were passed in March 1922. According to the estimates of the Finance Department and after giving an allowance of nearly 50 lakhs of rupees on the mere percentage of increase it was expected that these new taxations would yield about 140 lakhs. Subsequent events proved that although this was by no means an unduly optimistic estimate yet on account of general economic depression the old revenue as also the new taxes actually brought in much less than what was expected. I claim it was a great achievement for the infant democratic Legislative Council of Bengal, and for us its first ministers to pass three taxation Bills six-sevenths of the receipts of which were for meeting the normal expenditure of the Province. It would not have been an easy task to pass three taxation Bills for expansion for which the public clamoured, but it was far more difficult to pass these taxation Bills for finding the expenditure of the ordinary administration of the province. The cruel injustice of the financial adjustment for Bengal followed by the unforeseen disappointment in the realisation of old and new revenue destroyed all faith of the public of Bengal in the successful working of dyarchy

In making these observations I was perhaps anticipating events. To proceed chronologically I may say that when we passed the taxation bills, the Finance Department and the other members of Government thought there would be a surplus. By placing some of the capital expenditure on a proposed loan budget the Finance Department thought that 50 lakhs would be available for expansion. The Government of Bengal in a joint meeting decided that two-thirds of this sum should be set apart for expansion on the transferred side, and one-third on the reserved side. Considering that the first 120 lakhs of the new taxation was required for carrying on the normal expenditure of the province, the ear-marking of one-third of the estimated additional income for the reserved departments proved that the majority in the Legislative Council who supported the Ministers, and the Ministers themselves were anxious to deal justly and generously towards the Reserved Departments.

I have already observed that the budget of the year 1921-22 was prepared before we took charge of our office. The budget of the 2nd year of our office that of the year 1922-23 had to be prepared with a strict eye to economy as that was prepared before the taxation Bills were passed. In the second year of our office too no opportunity was thus afforded to us to bring into operation any of our schemes as we could not possibly expand without money. We were not, however, idle during the first 15 months of our office. Various schemes were prepared to be brought into operation as soon as finances permitted. In the Department of Education which was my portfolio I had, amongst others, prepared schemes under the heads noted below :—

(1) Schemes for Primary Education for every Municipality in Bengal, and for about 600 of the 1,500 Union Boards in Bengal, and also for expansion of primary education in other areas under the Panchayet System.

(2) Scheme for expansion of Girls' Education.

(3) Schemes for provision of Provident Funds for teachers of non-government secondary schools.

(4) Schemes for improvement of salary of teachers in non-government schools.

(5) Schemes for manual training in secondary schools.

(6) Schemes for improvement of physical health of students in secondary schools.

(7) Schemes for improvement of Mahomedan Education.

(8) Schemes for scholarship to Mahomedan boys.

(9) Schemes for scholarship to boys of the depressed classes.

(10) Schemes for special grant-in-aid for the expansion of education amongst boys and girls of the depressed classes.

(11) Schemes for establishment of a Board for Secondary education.

(12) Schemes for improvement of Higher education including a scheme for improvement of non-government muffasil colleges specially in science teaching.

Soon after the taxation Bills and the Budget of the 1922-23, I took up some of these schemes. The other Ministers also took up some of the schemes they had prepared and in July and August 1922 we passed supplementary estimates providing funds for some of these schemes. This was the first opportunity we had after being in office for about 18 months (half of the full term) to place before the public a limited few of our schemes as our capacity for financial expansion even then was very limited indeed. Cruel disappointment however was in store for us and for our supporters in the Legislative Council. Soon after passing these supplementary estimates in September 1922, the Finance Department informed us that the figures for the monthly receipts of the new taxes and the old revenue fell much shorter than their expectations.

The realisation of taxes from the new sources as also from old heads of revenue were so disappointing that the Finance Department anticipated that not only would there be no money for expansion *but that there would be a deficit of about 40 to 50 lakhs of rupees to carry on the expenses of our ordinary administration even.* We had, therefore, no other alternative but to retrench not only the schemes for expansion already passed by the Legislative Council in July and August sessions of 1922, but, from the old budget as well which already underwent a heavy retrenchment. Not content with this, the Government of Bengal unanimously decided to appoint a *Retrenchment Committee.* The Report of the Retrenchment Committee was received in our time; some decisions on the Committee's Report were arrived at in our time but others were left outstanding when we ceased to be members of the Government. During the last year too of our office we had therefore no opportunity *to initiate* our schemes. This chronicle of events will, I hope, give the Members of the Committee a very fair idea of the extremely difficult financial position of the Government of Bengal and specially the Ministers.

But these were not all our difficulties. The Members of the Committee are aware of the tense political situation created by *the non-co-operation movement* and the intense agitation that was started about the time His Royal Highness the Prince of Wales visited India. They are, I believe, also aware that the educational institutions were a special target of attack by the non-co-operator. I think, I can claim for the Government of Bengal of which I was a Member that it met the situation as *courageously and successfully* as any Provincial Government of India. I may also claim that in spite of attacks of non-co-operators and I am sorry to say of co-operators as well, there was some improvement and at any rate no set back in the vital educational activities of Bengal—a Province where educational problems have for over 20 years been admitted to be full of difficulties and whose financial needs for the solution of these difficult problems have admittedly been neglected for over 12 years. I may add acrimonious politics and even revolutionary crimes are not unknown amongst the youth of Bengal. The position, in short, was, therefore, of one of immense difficulty.

Relations with my Secretaries.—I am happy to state that my relations with my Secretaries were satisfactory. I had to deal with 4 Secretaries—1

an Indian holding a listed appointment and 3 non-Indians belonging to the I. C. S. Naturally there were occasions when I and my Secretaries took different views, but after I came to a decision I never had any occasion to complain of any lack of loyalty on the part of any of my I. C. S. Secretaries. There was never any occasion, at any rate to my knowledge, when any of my I. C. S. Secretaries went up to the Governor over my head. Although in point of fact there has been no specific case in my time, yet, I think the system which authorises a Secretary to approach the Governor over the head of a Minister-in-charge of the Department cannot be justified in principle. The same objection in principle does not apply to the case of a Member in charge of a Department. There is a difference in principle between a Member and a Minister. A Member is ultimately responsible to the Secretary of State. The Governor as also the Secretary, is similarly ultimately responsible to the Secretary of State. I, therefore, see less objection in principle apart from the practical question of discipline, in the Secretary retaining the power of approaching the Governor. A Minister, on the other hand, is responsible to the Legislative Council and is not responsible either to the Governor or to the Secretary of State. The Governor should in the Transferred Department occupy *the position of a Constitutional Governor*. He has no doubt the right to appoint or dismiss a Minister, but that right he should exercise only if he is satisfied that the Minister has or has not the support of the majority in the Legislative Council. The Minister being responsible to the Legislative Council, the Secretary should not have the right, as a matter of principle, to approach the Governor.

Finance Department.

The rules made under the Government of India Act contemplates that the Finance Department is to be a reserved department of the Government. That is the fundamental defect which in practice deprives the Ministers of taking any initiative, and makes their position very difficult and anomalous. I was somewhat amused to read in the newspapers reports of the evidence of some of expert witnesses about treasury control in England. Every body knows about that. The fundamental difference between treasury control in England and the control by a Finance Member of the Reserved side of the Government is that while the Chancellor of the Exchequer has to go out of office along with the ministry the Finance Member on the reserved side of Government has not. I recorded this opinion in more than one file where I had to deal with financial questions.

As a matter of actual experience so long as Sir John Kerr was the Finance Member I had not much practical difficulty. After he ceased to be Finance Member my difficulties began. For several months more than 2 or 3 hours of my time were taken up in fighting the Finance Department, and I believe it often took my Secretary, and his staff practically the whole day during these months to fight the Finance Department. In many cases, the final decision either in the Joint Meeting or by His Excellency the Governor was in my favour, but in some cases the time already taken over in arriving at the decision made the decision useless. It is not always possible to refer cases involving small sums either to the Joint Meeting or to His Excellency the Governor, and there were several cases dealing with a few hundred rupees only where I had serious difficulties with the Finance Department although in some of these occasions I was able to find money from my departmental budget.

However, in spite of all these difficulties, I do not ascribe any motive to the Finance Department. My personal relations with the Finance Member were satisfactory. In my opinion it was due to a want of understanding and not to any other motive. The Finance Member failed to understand that if Government had to be carried on with the support of the elected majority in the Legislative Council their point of view had to be respected within the limits permissible by the financial resources of the province.

The Finance Department on more than one occasion issued circulars directing all the departments to specific lines of action. In one case, I took up this matter before the Joint Meeting and the decision was in my favour, but here again the difficulty was that when the decision was arrived at the time for putting in supplementary estimates was over.

Appendix.

Note regarding Dominion Status for India and the question of economic self-interest of England and India.

" The increasing association of Indians in every branch of Indian administration," " the gradual development of self-governing institution" and " the progressive realisation of responsible self-government in British India as an integral part of the Empire " have been promised to India by the British Parliament. Since this promise was made three successive political parties have been in power, and every party has reiterated this promise. On the Indian side, self-government as an integral part of the British Empire, or, as many Indians prefer to put it, as part of the British Commonwealth, has been the accepted political goal of India. The difficulties of the realisation of this goal from the point of view of India and Great Britain must, therefore, be kept in view. It is bootless to enquire from the point of view of either country whether the British Parliament was right in making this promise, and whether this should be the accepted goal of India's political evolution. In my opinion this fundamental point about India's political goal should always be kept in view by all persons, both English and Indian who desire the well-being of India and England alike. If this point be kept in view then one will be less apt to overlook the many dangers and pitfalls that we are sure to encounter in our journey towards this promised goal. From the British point of view, it is necessary to remember that the problem of incorporating a country like ours as an integral part of the British Commonwealth is a far more difficult problem than that of incorporating a country like Australia or Canada or even South Africa. Australia is of the same race as Great Britain. The people of Canada are partly British and partly French in their origin, while in South Africa there are the Boers who are not of the same race as the British yet all the races in these countries have the common European stock, civilisation and outlook on life. The difficulties of Great Britain in incorporating India within her empire are far greater and therefore will require greater courage, greater good-will and more sympathy. The outlook on life of the Hindus, their past civilisation and modes of thought are in many respects materially different from those of the British. Then again there is the other great community,—the Mussalmans of India. They too possess a glorious past and there are amongst them not an inconsiderable number, who claim to be Moslems first and Indians afterwards ; but who nonetheless are genuinely anxious to shoulder the responsibility of a common Indian citizenship. Like all individuals and nations with a glorious past, the Hindus and Moslems of India are a proud and a touchy people. They are apt, perhaps naturally so, to lay too great stress on their past greatness and capacity and overlook their present shortcomings. British statesmanship must not, therefore, ignore this additional difficulty. In India, therefore, there are these two great communities whose outlook and view points are often different to those of the British and to each other. Besides these two communities, there are various races, castes and tribes in different stages of civilisation and human progress but in spite of all these

difficulties the unifying processes of a common education, a common government and the rising national spirit have been doing their work silently but steadily during the last 150 years of British rule in India. Great Britain has also got to remember that any going back or even any suspicion that she intends to go back on her promise will mean discontent and perhaps disaffection amongst those who have the opportunity, and as their activities of the last 4 or 5 years show, also the ability to mould the opinion of a large section of the 318 millions out of the 440 millions which go to make up the British Empire. From the Indian point of view, we have to realise and remember that India is what she is to-day because of the unbroken peace of the last 150 years. National life, education, facilities of travel and communication, common language to express the views and opinions of the divergent races inhabiting India, and an ideal of common nationality are the direct outcome of this peace for which every patriotic Indian ought to be grateful to Great Britain. From the Indian point of view we have got to realise and remember that we can only hope to reach the goal of a self-governing India as a part of the British Commonwealth, if there be mutual good-will between India and England. England is undoubtedly the centre-piece of that Commonwealth. Bitterness and hatred towards England must militate against the Indian ideal of a self-governing India, with the status of a British Dominion. Movements for propagating bitterness and hatred towards England may knit the Indians together so long as the common bond of hatred lasts, but as soon as that bond disappears the whole movement will collapse like a pack of cards. Such movements may or may not lead to a self-governing India but let there be no delusion that that self-governing India will not be and cannot be a self-governing India with the status of a British Dominion. On the Indian side we must not also forget that England and India are not the only two countries on God's earth. As soon as the strong hand of England is removed from India, other nations outside India and also some masterful individuals within the limits of India will not be slow to take full advantage of the situation. The gift of self-government in all the self-governing dominions of Great Britain has emanated from legislation by the British Parliament. Any undue bitterness on either side will militate against the realisation of this goal. Difficult as this problem is we must try to overcome the initial obstacles. These obstacles will be much minimised if we can come to a satisfactory understanding about the material self-interest of both the races in India. There may be a few thoughtful men on either side, a few men endowed with a wider vision, and a broader statesmanship who may rise superior to the material interests of the two races. The majority of mankind, however, are guided by self-interest. Politics concerns the majority and our task will be much lightened if we can satisfy the majority of both the races that the goal which England and India have set before them is also compatible with their material self-interest. I propose, therefore, to examine in this article the question of material self-interest of both the races. The most important material self-interest of the British in India concerns their trade, commerce, manufactures in this country as also in finding a ready market in India for the manufactures of their country. The interests of the British services in India from the financial point of view as also from the point of view of their middle class employment are not as important as that of their trading, commercial and manufacturing interests. The real importance of the services consists in the fact that without the British element in the services it is

apprehended that the vested interests of England in India may suffer. From this point of view the British element in the services occupy a position somewhat analogous to that of consuls in foreign countries. I shall, therefore, endeavour to examine first the interests of British trade and commerce which really mean her vested interests in India.

The problem of the interests of the British element in the services in India will become easier of solution if India and England can come to a real understanding about their respective economic self-interest. I believe that it will be difficult for India to attain self-government if we foster too much the idea of racial nationalism. Imbibing as we do our political thoughts and aspirations from European countries it is natural for us to lay too much stress on racial nationalism ; but we cannot ignore patent facts. India is not a compact country inhabited by one race like, say, France, Germany, Switzerland and Italy or Great Britain. There is no doubt a basic understanding and similarity between all the peoples who inhabit India but there exist great lines of cleavage as well. There is however a country in the world not a European country where democratic self-government is in a highly organised state although the citizens of that country do not belong to one community, race or even one nationality. I have in mind the United States of America. There the Czech, the Slav, the Russian-Jew, the Italian, the German, the French, the Irish in short, all white people from Europe as soon as they agree to take up the burden of citizenship they become a unit of the democratic organisation of the United States of America. These different people, many of whom do not even speak the same language, with religious and social differences have solved the problem of democratic self-government in a country inhabited by a variety of races by laying more stress on ideas of citizenship and justice between a citizen and a citizen than on ideas of racial nationalism. There are undoubtedly many points of difference between India and the United States of America but there are points of similarity as well. If we try to develop ideas of citizenship rather than that racial nationalism in India, and also if our future line be to foster equal opportunities to the common citizens of the future federated States of India then there will be a better possibility for that federated India to assimilate within her democracy the Hindu, the Mahommedan, the backward class, the British and the Indian. The guiding principle must be justice to all and equal opportunity for all but the first step towards laying down that ideal will be to get rid of the present bitterness due largely to the apparent clashing of interests between the British and the Indian. I desire on another occasion to discuss this problem more thoroughly than is possible within the compass of an article in a pamphlet, but for the present I suggest that persons of both the races who believe in the inculcation of a better understanding and a better feeling between the two races should try to have a common meeting ground. They should also try to solve the question of economic self-interest and the question of the interests of the British and the Indian elements of the services with due regard to the self-interest of both the races. I now proceed to place certain materials and suggestions which I hope will prove helpful in arriving at a better understanding between the two races.

I shall first take the export figures of 1913-14, the last of the pre-war years. For obvious reasons, I have not taken the figures of the post-war years. In the year 1913-14 India exported to the world at large £162 millions

worth of goods. Out of that Great Britain's share was only £38 millions or in other words 23 per cent. Out of this £38 millions, £14 millions were represented by tea and jute; commodities by which India benefited to a great extent although not fully. If we exclude these £14 millions represented by tea and jute there would remain £24 millions or 15 per cent. of the total export of Indian goods to the world. Neither 23 per cent nor 15 per cent amounts to an unduly large percentage of India's raw materials, considering the relations which exist between England and India. The export trade of India with Germany and Japan in the year 1913-14 represented 19·8 per cent. and in the year 1921-22 represented 23·5 per cent. of her total exports. It cannot, therefore, be said that England's share in the export trade of India is unduly large.

Politically-minded educated Indians, irrespective of their school of politics, Swarajists, No-changers or Liberals, generally hold the opinion that England is exploiting India. The British, on the other hand, hold the opinion that the export of surplus raw materials of India cannot mean 'exploitation.' I have my own opinion on the subject, and unfortunately, it does not tally with either of these two opinions whatever my opinion may be as to the meaning of the word 'exploitation.' I maintain that these figures do not justify the assertion of my educated countrymen that England is exploiting India so far at any rate as the export trade of India is concerned. These figures show that the bulk of India's raw materials go to countries other than the United Kingdom and the 'exploitation,' if any, is by such countries and certainly not by the United Kingdom. In my opinion, a true basis of co-operation with due regard to the material self-interest of Great Britain and India is possible in respect of the raw materials which are exported to countries other than the United Kingdom. If Great Britain and India by joining their hands can manufacture on Indian soil a good portion of these materials then there will be established a true basis of co-operation. In order, however, to succeed in that attempt it will be necessary to stand in world competition and success in world competition will be easier to attain if we co-operate. The basis of this co-operation must be the self-interest of both the countries, but in view of the fact that England for many years has been making, and will in future continue to make considerable profit out of the import trade of India it is only but just that the development of these new industries should be so adjusted as to secure to India a larger share of the profit. If out of £124 millions worth of goods which are exported to countries other than the United Kingdom, we turn raw materials of a value of even £20 to £30 millions into manufactured articles of a quality and a price that would stand in world competition then there would be available to India perhaps 2 to 3 hundred millions more for distribution amongst Indians and the British in India. It is true that the bulk of this additional money should be made available to Indians, but not an inconsiderable portion will also be made available to the British. A position such as that I have mentioned will mean more money to divide between the Indians and the British, and it will also mean that instead of quarrelling over the division of the little we have we shall produce more and divide the surplus. Take the most important raw material that is exported, *e.g.*, raw cotton. According to the average of last 5 years the export of raw cotton represented no less than 41 per cent. of the total value of raw materials exported from India. In the year, 1913-14 India exported more than 27 millions worth of raw cotton and about 3 millions of manufactured

cotton. The percentages of participation of the various countries in the cotton export trade of that year were as follows: Japan 45·3; Germany 15·8; Belgium 10·6; Italy 7·9; Austria-Hungary 7·03; France 4·9; the United Kingdom 3·6; other countries about 4 per cent. These figures will show that Great Britain was 7th in the list with only 3·6 per cent. If we can manufacture more of our raw cotton into finished commodities it will mean a great economic gain to India. I may mention that in pre-war days Germany was the second biggest importer of Indian raw cotton. She was also the second biggest importer of Bengal Jute. With Indian raw cotton and Bengal Jute and the waste product of her woollen mills and cheap coarse wool she successfully manufactured cheaper woollen articles. Indeed, in cheaper woollen articles she had a monopoly not only in the Asiatic and African markets but also of a considerable portion of the European market. Great Britain was nowhere in the supply of cheaper woollen articles. If for example, we can successfully take up the manufacture of cheaper woollen articles with our raw materials, we shall not in this be competing with Great Britain but with Germany. It will mean more money to divide between Great Britain and India. An examination of export figures of other raw materials discloses a similar state of things. Take rice. The United Kingdom took only 6·7 per cent of India's export in rice. Germany took 13·1 per cent. The non-British countries excluding the British Dominions took altogether 57·2 per cent. Take copra and seeds. In the year 1913-14 India exported over £17 millions in copra and seeds and Great Britain's share was only one-fifth. The remaining four-fifths went to countries other than Great Britain. Take hides, skin and leather. In the year 1913-14, India exported these materials of a value of more than £10½ millions. Out of that, the share of the United Kingdom was only 3 per cent. 35 per cent. went to Germany, 21 per cent. to Austria-Hungary and the balance to other countries. It is unnecessary to multiply instances. Shortly the export figures show that 77 per cent. of India's raw materials went to countries other than the United Kingdom and in the problem of successful manufacture of a substantial portion of this 77 per cent. of India's raw materials there appears no question of competition with Great Britain. It means on the other hand more money to Great Britain and a good deal to India—perhaps it will go a long way towards solving India's economic difficulties.

I would turn next to the import trade of India. In the year 1913-14, the share of the United Kingdom in the import trade of India was 64·1 per cent. Of this the most important item was manufactured cotton goods and the share of the United Kingdom in this manufacture was very large indeed. For example, of the total quantity of grey goods imported into India, the share of the United Kingdom was 98·8 per cent. It is in the import trade and specially in the import trade of manufactured cotton goods, therefore, that the charge of exploitation urged by the educated Indians is worthy of serious consideration. If we can come to a satisfactory solution relating to the cotton trade with due regard to the self-interests of both Great Britain and India we shall go a long way towards solving the acute question of the material self-interest of the two races. I suggest a solution on the following lines:—

(*a*) that all excise duty on Indian cotton manufactures be abolished with regard to lower counts, *e.g.*, say up to 40 counts;

(*b*) that the import duty of cotton goods from the United Kingdom should be reduced for the higher counts say from count 50 and higher;

(*c*) that the excise duty on manufactures in Indian mills be retained for the higher counts and similarly the import duty on Manchester cotton goods be retained for the lower counts, and

(*d*) a duty of say 5 per cent. be imposed on the export of Indian raw cotton.

I will now examine the probable effect of these suggestions on the cotton trade of India and other countries in the East. It is well-known that our Indian mills manufacture their goods from the short staple raw cotton of India. Therefore, it is convenient for them to manufacture goods of lower counts. Anything above 40 counts goes against the material gain of the Indian cotton industry. Manchester, on the other hand, manufactures cotton goods from the long staple Egyptian and American cotton. Similarly it goes against her material object to manufacture cotton goods of lower counts. Japan has to depend largely on short staple Indian cotton. Although, Japan is making great efforts to extend her area of cotton cultivation within the country and in Korea and is also importing American cotton more largely and although it is also true that her demand for Indian cotton is not likely to extend yet I think it is permissible to assert that for some years to come Japan will have to depend largely on Indian raw cotton and though short staple cotton is not a monopoly of India yet for all practical purposes Japan cannot but come to India for her supply of short staple raw cotton till at any rate she changes her cotton mills which are suitable for the manufacture of short staple cotton or can grow much larger quantities of short staple cotton in her own country or in Korea. In the meantime, one may reasonably expect that if we proceed on the lines suggested, Indian manufactures in cotton goods as also in the cheaper woollen goods containing a percentage of cotton will considerably increase and as the purchase of raw cotton by Japan and perhaps by the new mills of China will decrease and so the consumption of short staple cotton by the Indian mills will increase. This will not be detrimental to Indian interests. A small export duty of say 5 per cent. will therefore mean an advantage for the Indian mills in the Indian-Chinese, Straits and other Asiatic markets where India competes with Japan alone. It will also mean an advantage to Manchester in these Eastern markets against Japan, as Japan and India are the two main competitors of Manchester in cotton trade in these places. The world's manufactures of cotton goods for the eastern markets mainly come from Manchester, United States, Germany, Japan and India and the purchasing countries in these goods are China, India, Straits Persia, Arabia, South Africa and Turkey. The arrangement that I have suggested will also lead to the following results :—

(1) The consumers in India, rich and poor, will get their cotton goods at a lower price and therefore the general purchasing power of India will increase with the lessening in cost in a necessary article

cotton goods; the increased purchasing power will improve Indian trade and commerce. This will lead also towards easing a little the unemployment problem. It will also mean some increase in income tax receipts which will to some extent compensate the loss of revenue that may result from my suggestions.

(2) If the price of yarn both of higher and lower counts be reduced, weaving as a cottage industry in India is likely to improve. Under the present circumstances spinning as a cottage industry has very little chance of success, but weaving as a cottage industry specially with regard to certain types of goods where competition with mills is not very acute is certainly a practical proposition. The importance of developing a cottage industry like weaving in an agricultural country like India where 72·5 per cent. of the population are agriculturists is by no means to be despised. It is perfectly well-known that the agriculturists have spare time at certain seasons and a cottage industry, if properly organised and guided will go a long way towards solving many economic problems of the masses and the poorer section of the educated classes.

(3) It will give both Manchester and India a better position in the market of the eastern countries for the sale of their manufactured goods; and

(4) It will tend to diminish the acute political tension which has gathered round the problem of Manchester cotton trade in India.

I admit that my suggestions will mean that Manchester will still retain an important market in India, but if we want to come to an understanding with Great Britain there must be give and take on both sides. The benefit to India will, of course, be very substantial. My suggestions, if they be accepted by both the countries, will really mean economic regeneration for India, and a considerable advantage to England now sorely pressed by her after-war economic problems.

British statesmen have promised to India self-government within the British Empire; but these statesmen do not live in the same country with the Indians. For them it is easier to approach a problem like this from a detached point of view, than it is for those of their countrymen who live in India or have vested interests in India. Indians also often turn to British statesmen for justice and political advancement. The British Parliament and her statesmen may lay down the law for India but it is the British and the Indians in this country who will have to adjust themselves to the changing requirements of that law. Today, ominous portents are not wanting. There is unfortunately a tendency amongst both the races to exaggerate difficulties and differences. There is also the tendency of either side to blame the other for all the existing difficulties. What is needed first and foremost is a better atmosphere. Given the necessary good will the economic and political problems and the

other problems of material self-interest can be solved and consequently difficulties will be minimised. I have not discussed in these lines the ways and means for carrying out my suggestions. If I can get the assurance even of a limited few of earnest and patriotic men of the two races who would try to promote the good will that I desire so much between them I shall place before the British and the Indian public definite and concrete suggestions to carry into effect the underlying ideas of this paper.

Memorandum by Sir Surendra Nath Banerjea, ex-Minister, Bengal.

LETTER FROM SIR SURENDRA NATH BANERJEA, KT., TO THE SECRETARY, REFORMS ENQUIRY COMMITTEE, DATED BARRACKPORE, THE 8TH OCTOBER, 1924.

I have the honour to acknowledge the receipt of your letter no. F.-166-II-1-24, dated the 30th June 1924, and to observe as follows :—

I take it that the Committee desire me to submit a record of my personal experience as Minister under the Government of Bengal and such criticism as my knowledge of the practical working of the Government of India Act of 1919 and the Rules thereunder may suggest, together with my views on the Central Government as constituted under the aforesaid Act.

The controversy really centres round the question of dyarchy, and it has evoked a measure of heat and passion which may prove highly prejudicial, if not altogether fatal to the dispassionate consideration of the issues raised. There are the Swarajists who are out to wreck the Reforms and they make no secret of their intention. It is in their case the old cry of the extremist party " down with the Reforms " now set forth in a new and perhaps more attractive garb. Then on the other hand, there are moderate leaders who have always supported the Reforms, but who, in some cases as the result of their experience, condemn it as impracticable and faulty beyond correction. In connection with this controversy it is necessary to bear in mind the limitations subject to which dyarchy found a place in the Reforms. Nobody, not even its supporters were enamoured of dyarchy. At best it was a tentative beginning, the first starting-point of a great experiment. I explained my view-point and that of the Moderate party in my evidence before the Joint Parliamentary Committee. Let me quote an extract. I said :—" We supported dyarchy not because it is an ideal system, but because it was the only feasible system for giving effect to the message of the 20th August 1917. It provides for responsible Government within sight by providing progressive stages, and therefore we supported it." And here I was speaking as the Head of the Moderate Deputation and on behalf of the Liberal Federation.

What has happened since then that we should withdraw our support from dyarchy and declare it as an impracticable system ? Has its working disclosed defects so inherent in the system that it must be discarded ? All this is a question of evidence. Let us examine it. In the Central Provinces, in the Punjab and in the United Provinces ex-ministers have given evidence to the effect that dyarchy has failed. Their testimony is entitled to the highest weight, for they speak with first-hand knowledge. I cannot however say, with due regard to facts, that in Bengal dyarchy has failed so far as it was under my control (*viz.*, Local Self-Government, Public Health and Medical Departments). We were crippled through want of funds. It is the Meston award and the Finance Department that checked our activities. The Meston award perpetrated a grave injustice by depriving Bengal of one-half of the proceeds of the Income-tax which we formerly had and by diverting to the coffers of the Central Government the whole of the proceeds of the Jute-tax which is peculiar to Bengal. We cried ourselves hoarse over this matter. We protested in the Legislative Council. We waited on deputation, and the only relief we obtained was

the remission of the yearly tribute of 63 lakhs of rupees payable to the Central Government. In Bengal, it would have been difficult to raise the cry that dyarchy had failed if we had more money and could liberally distribute it among the nation-building departments, such as Sanitation, Education and the Industries. I know as a matter of fact that some schemes of water-supply for the riparian municipalities were ready but could not be started, because there was no money. Owing to the same cause, schemes for rural water-supply and rural dispensaries were mutilated or abandoned. Could we even partially give effect to them, the Reforms would have been blessed. If we could not, was it the fault of the dyarchy or due to the impecuniousness of the Government? The responsibility of the failure must be shouldered by the Meston Committee and the Finance Department. The nation-building departments never got more than 35 per cent. out of the total revenues of the Province, the balance going to the reserved side. The Departments that needed the utmost financial help were the Departments that were most starved. I recognize the difficulties of the situation. Under a purely bureaucratic form of Government, the Departments dealing with law and order received the largest measure of attention; for the maintenance of the public tranquillity must constitute the basic foundation of all stable progress. But to sacrifice the superstructure, or to make it inadequate for its purposes, for the sake of an unnecessarily costly foundation, must be regarded as a serious administrative blunder and perversion of the true administrative perspective. The average man dealing with his own affairs would not be guilty of such a mistake. Far less is the justification for a Government administering the affairs of a great community. Possibly there were heavy committals on the reserve side; which had to be made good. But the fact remains that the Transferred Departments were started with inadequate financial provision, and it is this fact, coupled with the intervention of the Finance Department, that really crippled the work of our Departments.

In this connection there occur some points which deserve consideration. Should there be a separate purse for the Transferred Departments, or should the present system of a joint purse for both the Departments be continued? At the final stage of the discussion, the Government of India recommended the creation of a separate purse for the Transferred Departments; and Lord Meston urged this view in his evidence before the Joint Committee. We were all opposed to it, and mainly on the ground that a separate purse would interfere with and probably delay the fusion of the two wings of the Government, Reserved and Transferred, which is the ultimate aim of the Reforms to secure. There is however a growing feeling in favour of a separate purse, which it is believed would do more justice to the claims of the Transferred Departments; and a resolution to this effect was to have been moved in the Legislative Council. I am inclined to revise my former opinion in the light of more recent experience. One thing is certain that a separate purse for each Department, Transferred and Reserved will have to be voted by the Legislative Council, and we know on which side the sympathies of the Legislative Council would be. A machinery will thus have been provided for the steady and automatic expansion of the revenues appropriated for expenditure on the Transferred side. In my opinion the creation of a separate purse will strengthen the financial resources of the Transferred Departments. I do not profess to be conversant with the technical difficulties that may stand in the way, but it is to be noted that the Government of

India recommended a separate purse, and that Lord Meston, on behalf of the Government, put it forward before the Joint Committee for its adoption.

Then there is the question of the appointment of a Joint Secretary for the Transferred Departments. This is provided for under the Rules. We discussed this matter with Lord Ronaldshay and Lord Lytton. Both were in favour of such an appointment. Here again there was the financial consideration, and the lurking unwillingness of members to vote for an appointment which none felt sure would go to him. The last is a personal feeling, which, I am sure, will disappear with the growth of responsibility. The adequacy of our funds is the true solvent of the situation.

Lastly the Finance Department is on the Reserved side, and the Head of the Department is more or less identified with the work of the Reserved Departments. Consciously or unconsciously, perhaps more often the latter, his sympathies would be with the Reserved side. I recommend the transfer of the Finance Department to the Transferred side which more than the Reserved subjects needs financial help and sympathetic guidance. The only objection that I can think of is that the Minister is not likely to be an expert in Finance. But the Chancellor of the Exchequer who is a popular Minister is not usually a financial expert. The technical part of the work is done by the permanent officials who deal with the details; nor is the Civilian Member in charge of the Finance Department always an expert or has the requisite training. The difference between him and the popular Minister in charge of the Finance Department would be one of degree and not of kind.

I have so far dealt with financial considerations relating to dyarchy. Where we could get on without money, I was not hampered by a dyarchical form of Government. In matters of legislation, of public appointments and the liberalization of public institutions, my Department made a notable advance. We democratized the constitution of the Calcutta Corporation by an Act whose merits have been recognised even by the Swarajists, though unfortunately they are working it for their own party-purposes. A Bill was introduced into the Bengal Legislative Council liberalising the constitution of the moffusil municipalities. By an executive order the number of municipalities vested with the right of electing their own chairman was increased, and by a similar order the same right was conferred on the Local Boards and on five District Boards which did not enjoy that right. The Indianisation of the services was advanced under a dyarchical form of Government. For the first time in the History of Calcutta a non-official Indian, Mr. Surendranath Mullick, was appointed chairman of the Calcutta Corporation and this important appointment was removed from the list of officers reserved for the Indian Civil Service. The Indian Medical Service appointments, largely held by Europeans, were reduced from 42 to 24 in the Bengal Establishment. For the first time Indian Assistant Surgeons were appointed Professors of Medicine and Surgery in the Medical College and two members of the independent medical profession, Sir Koylash Chunder Bose and Major Hussain Surwardy were appointed, the former as Honorary Physician and latter as Honorary Surgeon of the Medical College Hospitals. Further an impetus was imparted to the establishment of medical schools in the moffusil and to the study of Ayurvedic Medicine. Lastly let me mention two concrete cases in support of the view

I have ventured to urge. Let me, as regards one of them, give the facts from the Official Statement :—

> " Item 45, Part II, Schedule I, of the Devolution Rules published by Notification of 16th December 1920, states that the regulation of medical and other professional qualifications and standards subject to legislation by the Indian legislature remains a provincial reserved subject. The Medical Act in England is administered by the Privy Council and presumably the above exception was made by the Functions Committee to guard against the lowering of western medical standards in India, whether through a desire to encourage the indigenous systems or to secure cheaper medical attendance.
>
> 2. The Government of Bengal on 11th May 1922, reported to the Government of India that there had been no indication of the dangers which the Functions Committee wished to guard against and that if nine-tenths of the administration of the Medical Department could be safely transferred, it was illogical to reserve the administration of the Medical Act. It was stated that there were drawbacks in placing a Member of Council in charge of this small portion of the medical administration, while he was entirely divorced from all knowledge of the remainder.
>
> 3. The Government of India consulted other Local Governments and finding that the present arrangements had not given rise to practical difficulties, and that there was no such unanimous desire for change as to justify action, decided not to move further in the matter."

Thus the Government of Bengal wanted to remove to the " Transferred " side a branch of the Medical Department which was a Reserved subject, and they apprehended no lowering of the standard of Medical Education under Ministerial control.

The second case relates to the Department of Local Self-Government. It was in connection with some nominations to a District Board which I had made. The Magistrate objected to some of these nominations. Under the Rules of Executive Business, the matter went up before His Excellency the Governor. My point was that as I was responsible to the Legislative Council, I must control, so far as the law permitted me, the personnel of these bodies ; that was my constitutional right. His Excellency accepted this view, but there was a difficulty. The nominations were published in the Gazette under the signature of the Commissioner of the Division, who obviously could not be asked to publish names under his authority when he disapproved any of them. The difficulty was easily solved. Under the law the nominations were subject " to the administrative control of the Local Government," which in this case meant the Minister for Local Self-Government ; and the notifications were issued by the Commissioner " subject to the administrative control of the Local Government." Thus the authority of the Minister was upheld while the objection of the local authorities was fully met.

A tree is judged by its fruits and in view of these facts and others set forth in the little pamphlet which I append and which was published

in November last, it will not do to say that dyarchy, at least so much of it as was controlled by me, was a failure.

The truth seems to me to be that the success of dyarchy depends largely on the atmosphere which is created and in which it has to work. It depends upon the good-will and the hearty co-operation of the Governor, the members of the Executive Council in charge of the reserved side and of the permanent officials of the various Departments. It is the Governor who gives the cue, the first and ruling impulse ; the members of the Executive Council must sympathetically respond ; and the permanent officials must follow their lead. It was this condition of things, this atmosphere, that was established in Bengal from the first start of the Reforms. Both Lord Ronaldshay and Lord Lytton were statesmanlike in their attitude of sympathy and help and stood by the Ministers with their generous support. They acted as constitutional sovereigns and made no distinction between Members and Ministers. Possibly their experience of English public life helped them, and the Members of the Executive Council in their turn, made no distinction between themselves and their Ministerial colleagues. Good-will was the predominating note ; it was coupled with the practical recognition of an equal status.

The real difficulty about dyarchy is that it depends upon the uncertainties of the personal element, which may vary in the different provinces and in the same province from time to time, and that no rules and no hard and fast conventions can afford adequate protection. Further it may often set up two divergent and even conflicting interests (the Reserved and Transferred) which must interfere with that homogeniety and solidarity which is the truest guarantee of efficiency and which in the long run secures popular approbation. Lastly so far as one can judge, educated public opinion condemns it ; and no popular institution can in these days thrive without the support of public opinion. Dyarchy should go as quickly as possible, not because it has been a failure everywhere, but because public opinion apparently does not want it. But in any case full provincial autonomy cannot be given without the necessary safeguards. We must have liberty, but not license. License is the mother of revolutions. The freest institutions must be subject to the necessary checks, provided by statute or by rules or by conventions. The English constitution is thus safeguarded against the risks incidental to all human institutions, and England is the mother of Parliaments, furnishing the models to all Parliamentary institutions. What these safeguards are to be must be thought out and recommended by a Parliamentary Commission. I recognise that there is a possible risk of the loss of efficiency ; but we must face it, and good Government is no substitute for Self-Government. The real danger is the domination of the Swarajist Party. They have been tried in the constructive art of statesmanship and administration, and they have failed. Their methods are selfish and unscrupulous. They have in the administration of the Corporation subordinated the general weal to party interests. In the larger concerns of the Province there is no guarantee that the same principles and the same objective will not guide them. In their case the sobering influence of power has only served to add to the intoxication generated by it. But a party that does not make righteousness the guiding impulse of its policy cannot long remain in power. Therein lies the hope of the future of Self-Government. The divine gift has in it the seeds of its own self-preservation and self-correction.

In the absence of full provincial autonomy, I desire to submit recommendations which would be a long forward step towards it. There are some Departments which may be transferred to popular ministers, without any modification of the Act, and as it seems to me, with little or no risk of loss of efficiency. I have already referred to the Finance Department, which may be so transferred, and I would include among the Transferred subjects, Law and Justice and Jails and the Revenue Department. For it deals with flooding and flushing which forms the principal feature of large Anti-Malarial operations. I do not over-look the fact that Irrigation has an important commercial bearing; but I venture to submit that in Bengal, the health problem is the problem of problems, and combating malaria is the dominant factor in that problem. If the views I have suggested are accepted and subject to the necessary safeguards, it seems to me that there is no reason why they should not be—the only Departments that may remain Reserved are the Police and the Political; and there need be only one or at the most two members of the Executive Council, while the number of popular ministers will have to be increased.

If the Finance Department is transferred to a popular minister, a Joint Secretary in charge of the Transferred Departments would not be necessary; otherwise I would have one.

Under the Government of India Act, the Governor is to be guided by the advice of the ministers; but he is at liberty to over-ride their decision. In Bengal, in my experience the Governor has acted in relation to his ministers like a constitutional sovereign.

In my Department I do not remember any order of mine being set aside by the Governor. If there were differences and the occasions were not many when there were such differences, we discussed the matter and we were able to come to an agreement. But I recognize that there must be at times difficulties; and I would suggest that in such cases the points at issue should be submitted to a Council of Ministers and their decision should be final, the Governor being guided by it. This would need a modification of the Act.

Legislation affecting a particular province should ordinarily be dealt with in the Legislative Council of the Province; and the previous sanction of the Government of India to local legislation should be done away with, unless the Governor should think it necessary to refer any matter for the consideration of the Government of India. The last suggestion is made with a view to avoid delay.

The electorate is undoubtedly capable of great improvement, as the bulk of the electors do not recognize their responsibilities. It must be so in the beginning of a novel experiment; of course the electors will learn their business with time and experience; the best training is received by actual practice. But in the meantime blunders will be committed; unworthy men will be returned; practices will be resorted to, discreditable to the cause of Self-Government. But there is no escape from this unfortunate position and it is by committing mistakes and paying for them that we learn how not to commit them. For the Government having set its hand to the plough, there can be no turning back. The British Government despite its many faults of omission and commission has never been known to withdraw or modify a concession once made. We know the fate of the jury notification in Bengal. The Government cannot think of restricting the franchise already conceded. In this connection, the question

of a second chamber arises, not indeed with a view to restrict or modify what has been given, but to regulate and balance the constitution. The whole question should be thought out and reported upon by the Parliamentary Commission under the Government of India Act.

The Council shall continue for three years from its first meeting. That is the present law. This seems to me to be too short a period and should be extended to five years. I make this suggestion as the result of practical experience. In the first year the members learn their business, in the second year, they set down to work ; and in the third year on the eve of the elections, the members have their eyes fixed upon the approaching event which will decide their fate and all real work is suspended. Resolutions are moved, questions are asked, votes are given, all with an eye to secure success at the polls. The moderate becomes an extremist. The extremist makes a still further advance in his cult. The poor moderate is nowhere. All useful work is suspended in the mad campaign of vote-catching at the polls. A quinquennial Council does not necessarily mean that the life of the Council should extend to five years ; for it would be always open to the Governor to dissolve the Council whenever he chooses. The extension of time would thus operate in the interests of the country and will save it from the excitement and demoralization incidental to an electioneering campaign. The suggestion if accepted would need a modification of the Act.

Lastly I would urge the introduction of responsibility in the Central Government. This view was urged before the Joint Parliamentary Committee by Indian witnesses of all shades of political opinion. There was no reason why a division of subjects into Transferred and Reserved similar to what has been followed in the Provincial Governments, should not be adopted in the Central Government. There would be little or no risk while there would be the advantage of creating in the Legislative Assembly a higher atmosphere of responsibility, due to the exercise of power and not merely of influence by the Assembly. United India makes this demand ; and I submit that this concession should be early made.

Lastly I desire to record my opinion against the communal system. Apart from all other considerations it is a serious hindrance to the development of the party-system which is an essential feature of Parliamentary life. The recognition of the communal principle has been a mistake ; but I fear it is not possible to undo it without the concurrence of the Mohamedan community.

APPENDIX.

As the life of the present Council will soon expire, the following survey of the progress made by the departments for which the Minister in charge of Local Self-Government,-Sir Surendranath Banerjea, is responsible may be of interest :—

CALCUTTA MUNICIPALITY.

The work done in connection with the Corporation is important and is expected to produce far-reaching results. In 1921 for the first time an Indian Member of the Civil Service, Mr. J. N. Gupta, was appointed to officiate as Chairman of the Corporation in place of Mr. Payne, the permanent incumbent. A still more notable step was taken later on in May 1922 when Mr. Gupta, owing to the state of his health, was compelled to take leave. For the first time in the history of the Corporation a non-official Indian in the person of Mr. Surendra Nath Mullick was appointed to act as Chairman. It was a striking departure. The Chairmanship of the Corporation was one of the appointments reserved for the Indian Civil Service, and the Minister in charge had to move the Government of India and the Secretary of State to obtain their sanction to the appointment, which was given. As a matter of fact the appointment will have to be removed from the list of appointments reserved for the Indian Civil Service, as under the new Calcutta Municipal Act it has been broken up into two separate appointments, Mayor and Chief Executive Officer, both elected by the Corporation. Mr. Mullick has now been appointed substantive Chairman of the Corporation till the new Act comes into operation. Nor is this all. The revision of the Calcutta Municipal Act known as the Mackenzie Act had long been overdue. The Municipal Act used to be revised every twelve years. The present Act came into operation on the 1st of April 1900, and attempts were made from time to time to revise it. In 1917 a Bill was actually introduced into the Council, which was afterwards withdrawn. Thus after nearly a quarter of a century the Municipal law of Calcutta was revised and placed upon modern lines and a democratic basis. The constitutional part of the present Act has been thoroughly revised and placed in conformity with the spirit of the Reforms, and large powers to control sanitation and to prevent the adulteration of food have been taken. The constitutional changes deserve a word of notice. What the Indian public had demanded ever since 1899 was now conceded under the Bill. The Bill which has been passed and has received the assent of the Governor, in truth places the control of the Municipal affairs of the city in the hands of the representatives of the ratepayers, elected for the most part upon a broad franchise. How fundamental and entirely in accord with popular opinion the constitutional changes introduced have been will appear from the proceedings of a public meeting held at the Town Hall on the 29th January 1916 under the presidency of the Maharaja of Burdwan, when the following resolution was passed :—

"That this meeting while deeply grateful to the Government of Bengal for undertaking to revise the Calcutta Municipal Act, is of opinion that the constitution of the Calcutta Corporation should be revised on the following lines :—

(*a*) that the office of President of the Corporation should be separated from that of the Head of the Municipal Executive

and that both the President and the Head of the Municipal Executive should be elected by the Municipal Commissioners, the election of the latter, if need be, being subject to confirmation by Government ;

(*b*) that with a view to give the rate-payers an effective voice in the control of their Municipal affairs, at least three-fourths of the members of the Corporation should be elected by the different wards ;

(*c*) that the authority of the Corporation should be supreme and that all proceedings of the Executive and of Committees should be liable to revision by the Corporation as under the Acts of 1876 and 1888. As a necessary sequel, the system of co-ordinate authorities should be done away with."

All these demands have been complied with, and indeed the Act goes much further. It raises the number of Municipal Commissioners from 50 to 90 of whom 80 will be elected ; the supremacy of the Corporation is restored, the system of co-ordinate authorities being abolished ; plural voting is practically abolished and is restricted to one vote for an elector in each Ward when he possesses the necessary qualifications. The executive Head of the Corporation will be elected, subject to confirmation by Government and not as now nominated by Government, and the President of the Corporation will also be elected. The sex disqualification has been removed and the franchise has been lowered, so that altogether a democratic constitution with large powers vested in the rate-payers has been secured for the citizens of Calcutta.

CALCUTTA IMPROVEMENT TRUST ACT.

It used to be a matter of universal complaint with the people of Calcutta that the Improvement Trust did not allow the 15 per cent. compensation to owners when land was compulsorily acquired. This grievance has now been removed ; and the Minister has added a provision to the Improvement Trust Act, under which the usual compensation of 15 per cent. is allowed.

LOCAL SELF-GOVERNMENT IN RURAL AREAS.

In the preceding two years all but five District Boards were given the privilege of electing their Chairmen from among the non-official members. This privilege has now, since the inauguration of the Reforms, been extended to these five Boards, so that in future these local bodies will be relieved of official tutelage. The policy of de-officialisation was further pursued in the case of the Local Boards, and orders have been issued that no official member of a Local Board should stand for election as Chairman, and that the existing official Chairmen, *viz.*, the sub-divisional officers, should make room for non-officials. All Local Boards have now been invested with the right of electing their own non-official Chairmen. To secure a substantial elective majority, the proportion of elected members of fourteen District Boards was raised from one-half to two-thirds, their strength as well as that of the Local Boards subordinate to them being increased at the same time. It was decided that the remaining Boards should be brought on the same footing when they were next reconstituted. Local Boards were established in four sub-divisions

which had not this institution before. It is notorious that the District Boards suffer from want of funds, and one of their most urgent needs is the supply of pure drinking water. A Bill has been framed to meet this want and was adopted at a conference of the delegates of the District Boards held in March last under the presidency of the Minister. At the Conference referred to above, on the motion of the Minister, it was resolved that at least one-third of the proceeds of the Public Works Cess should be devoted to sanitation and water-supply, and the Minister had before this addressed a circular to the District Boards urging them to set apart a substantial portion of the augmentation grant for the benefit of the Union Boards.

MUFFASSIL MUNICIPALITIES.

The number of Municipalities vested with the right of electing their Chairmen was increased, and the privilege was withheld only from five Municipalities in all Bengal, owing to the existence of special conditions. A Bill has been framed, amending the Bengal Municipal Act. Its more important points were discussed at a conference of Municipal Chairmen and Vice-Chairman held under the presidency of the Minister. The Bill is now under the consideration of the Government, and makes a great advance upon the existing law. It has since been introduced in Council.

VILLAGE SELF-GOVERNMENT.

The number of village authorities known as Union Boards continued to increase, rising from 1,500 to more than 2,000, and some more were in process of creation. These institutions are in their infancy, and although many of them have shown remarkable aptitude for administering their own local affairs, some Boards appear to have not realised the benefits conferred by the Village Self-Government Act, and in pursuance of the policy that those Boards should not be allowed to exist where there is a manifest unwillingness on the part of the villagers to avail themselves of the privileges of this organisation, the Union Boards in the District of Midnapore were abolished, with the exception of one.

PUBLIC HEALTH DEPARTMENT.

In 1921 the Minister invited a conference of the representatives of the Press, European and Indian, to discuss the question of public health. He opened the Conference with an address in which he appealed to the Press to co-operate with the Government in creating a body of public opinion which would help the Government in inaugurating the necessary measures to rid the country of malaria and undertake other sanitary measures. About the same time a circular letter was addressed to the District Boards by the Minister of Local Self-Government, inviting them to hold conferences to formulate anti-malarial measures and schemes of water-supply for their districts, and to consider how they should be financed. The Minister promised that if invited he would be present at these Conferences. As a matter of fact he attended nine such Conferences held in the following districts :—Dacca, Barisal, Khulna, Jessore, Dinajpore, Hooghly, Krishnagar, Faridpur and Howrah. Several District Boards have submitted their schemes which are now being considered by the Department. The result has been that an atmosphere has been created

in many of the districts in favour of undertaking sanitary works for the improvement of public health and the supply of pure drinking water. The fruits of this change will no doubt manifest themselves within a measurable distance of time, for after all sanitation needs the active co-operation of the people for its success, and the Health Department recognizes the useful work which is being done by the Anti-malarial Co-operative Societies. With regard to anti-malarial operations, the Bhairab project, which will cover four districts, namely, Murshidabad, Nadia, Jessore and Khulna, and traverse about 1,400 square miles, is now under preparation. It is a big project ; the old schemes are being revised, for experience has shown that the true remedy for the prevention of malaria lies in flushing and flooding and the improvement of our rivers. The Health Department is engaged in work having this object in view.

In spite of the fact that financial stringency has greatly hampered the work of the Public Health Department ever since the Reforms came into force, there has been marked progress in certain directions. For example there has been a great expansion of the public health activities of local authorities, both in respect to vaccination and anti-cholera measures. With two exceptions all District Boards are now employing Health Officers, and have taken over control of vaccination, and for the first time in their history District Boards are now initiating anti-cholera work which promises to give excellent results. There has been a material decline of cholera mortality as compared with previous years ; and owing to the much greater attention that is now being paid to this disease largely in consequence of the propaganda work of the Department, there is every ground for believing that the decrease will continue until eventually the disease is brought entirely under control.

Vaccination.

Anti-cholera work.

As regards large schemes the Department of Public Health can only act in an advisory capacity, the Irrigation Department (which is a Reserved Department) being solely responsible for the initiation and execution of all large engineering projects affecting the rivers or the drainage of the country. Owing to financial stringency it has not been possible as yet to inaugurate any new large schemes of river improvement which are considered essential to the amelioration of conditions in many of the malarious districts. But several schemes of a different character such as the Arul Bil drainage scheme, etc., have been completed and progress has been made in connection with the Jamuna, Nowi Sunthi and Ampta projects. These schemes are largely in the nature of agricultural drainage works, rather than anti-malarial schemes. Definite and most encouraging results however have already followed upon the partial re-excavation of the Saraswati river—the spleen rates of a number of adjacent villages have been greatly reduced since the river bed was re-excavated. The survey of the remainder of the river is now being carried out and a final report and estimates are expected very shortly by the Irrigation Department. The Bhairab improvement project drawn up last year was found to be open to serious criticism, as it did not appear to offer a favourable chance of any great improvement in the river. In these circumstances the Irrigation Department decided to examine the possibility of re-opening the upper reaches of the Bhairab with a view to allowing the entrance of larger volumes of water from the main stream of the Padma. The survey of the upper Bhairab has been pushed on vigorously during the dry weather months, by 13 survey parties belonging to the Irrigation Department, and the final results of this survey of

Bhairab Project.

shortly expected. The whole of the Bhairab Jalangi branch of the river has now been completely surveyed, and about one-third of the Matabhanga branch has also been surveyed. Nothing can be definitely stated until a final report has been received from the Irrigation Department in this connection. Apart from the activities of the Irrigation Department already referred to, the following may be noted. Anti-malarial projects completed prior to January, 1921, include :—(1) Meenglas, (2) Singaran, (3) Jangipur and (4) Banka Valley. These have been observed continually, and the results are being carefully recorded. So far the best results have been obtained at Jangipur, where there has been a reduction of the general mortality, the fever death-rate and the infant mortality. The spleen index also shows a decline. Improvement has also been noted at Meenglas and Singaran, but is not so marked as at Jangipur. In the case of the Banka Valley project the Irrigation Department report considerable improvement of the agricultural conditions as a direct result of the work, but the health and population statistics are not so definite. On the other hand it is to be noted that if we remember that from the beginning of 1918 onwards sickness and mortality throughout Bengal showed an abnormal increase and that conditions only began to approach normal again in 1922, too much cannot be expected, and the very fact that the areas in which these anti-malarial schemes are situated escaped to a great extent the abnormal increase of mortality suggests that the measures have really been more effective than might at first sight appear. Besides the four projects mentioned, flood and flush drainage schemes have been carried out in the town of Tangail and Budge-Budge, and the results are so far satisfactory.

Other work in connection with malaria.

WATER-SUPPLY.

Anti-malarial operations carried on by means of flushing and flooding will necessarily improve the water-supply and also add to the agricultural prosperity of the country. A committee was appointed for considering schemes of water-supply for the riparian Municipalities on the left bank of the Hooghly. They have submitted their report and applications have been made by several Municipalities for grants and loans which are now under consideration. A similar committee has been appointed in connection with the municipalities on the right bank of the Hooghly. Their report is awaited. Experiments with tube wells has been tried in some Municipalities, and the system, it is hoped, will solve the water-supply problem in some municipal and rural areas. It cannot be applied everywhere. Wells and tanks must in many rural areas be the only source of water-supply. Last year we made a grant of Rs. 1,500 for wells in Bajitpur. It stimulated local effort and saved the people from the horrors of water-famine. To aid rural water-supply a provision was inserted in the emergent Bill amending the L. S. G. Act, by the District Board Conference empowering District Boards to take possession of any source of water-supply which is used by the public and to re-excavate it and take such other action as may be necessary, the owners being permitted to rear and sell fish, the tank being restored after the expenses of re-excavation have been recouped.

MEDICAL DEPARTMENT.

The Department attaches great importance to the establishment of medical schools outside Calcutta in order to provide a larger number of

medical men for work in the rural areas. A Committee was appointed for the purpose and it has been decided to start a new medical school in the Mymensingh district which will have an efficient staff similar to the staff of the Ronaldshay Medical School in Burdwan which was established before the Reforms came into operation. It has also been decided to found another medical school in the Chittagong district, and it is hoped that funds will be available for proceeding with this scheme next year. In this connection it should be mentioned that at the request of the Minister, Kumar Sanat Kumar Mukherjee of Utterpara has made a generous gift of Rs. 51,000 which has been placed at his disposal for medical schools in the mufassil. Out of this, the Minister has promised a sum of Rs. 20,000 for the Chittagong Medical School and Rs. 10,000 for the Mymensingh School. Works in connection with the early establishment of the Mymensingh School are being pushed forward.

The problem of providing medical relief for rural areas has received careful attention. It has been decided to make an effort to establish a small pucca dispensary in each of the 137 thana headquarters, where no such dispensary at present exists. It is also hoped that small dispensaries of a cheaper type may be established in villages by offering municipal subsidies or a retaining fee to the doctor, who is expected to supplement this income by private practice. The Legislative Council has allotted Rs. 15,000 per annum in all for these two schemes, on the understanding that this allotment will be required for at least three years after which the question will be reconsidered. The success of these schemes depends largely on the response made by District and Union Boards.

Committees have been appointed to remove complaints which used to be made regarding the method of selecting candidates for admission to the Medical College of Calcutta and the medical schools, owing to the enormous number of applicants who desire such admission.

Committees have been appointed to report on the question of restoring or developing the Ayurvedic and the Tibbi or Unani system of medicine.

A scheme for the establishment of a Leper Colony for the accommodation and treatment of lepers in Bengal is under consideration.

I. M. S. APPOINTMENTS.

An important constitutional question was raised by the Minister in charge of the Medical Department in connection with appointments of I. M. S. officers in this Presidency. Hitherto these appointments though paid for by the Government of Bengal used to be made by the Government of India. The Minister pointed out that this involved an infraction of his constitutional position of responsibility to the Legislative Council, and he claimed that the appointments should be made by the Local Government, subject to the advice of the Government of India and information being given to that Government. The claim has now been practically admitted.

Schemes for associating independent practitioners and non-I. M. S. medical officers with the staff of the Medical College Hospital is under consideration.

Two independent practitioners have been placed in charge of the Special (*i.e.*, skin diseases and ear, nose and throat) Out-door Departments, Campbell Hospital.

Another step towards the employment of qualified Indians in high positions in the Medical Department has recently been taken by the appointment of Dr. U. N. Brahmachari and Dr. K. K. Chatterjee as additional Physician and Surgeon respectively to the Medical College Hospitals. This is the first time that Indian Medical Officers in the grade of Assistant Surgeons have been appointed to these posts.

A still more notable advance has been made in the same direction. So far back as October 1921, the Minister recommended the reduction of appointments reserved for the I. M. S. from 40 to 24. These recommendations have been accepted by the Secretary of State and will now be given effect to. It means the further Indianization of high medical appointments. A leading newspaper observes in this connection ;....." In any case, it is evident that Sir Surendranath Banerjea means to do his utmost to give effect to the ideal of India for the Indians".

L431HD—200—28-1-25—GIPS

Memorandum by Mr. A. K. Fazlul Huq, ex-Minister, Bengal.

In order to arrive at a proper appreciation of the problems before the Committee, we have to take note of certain essential points. To begin with, we have to remember that the introduction of responsible government under the political conditions prevailing in India, is in the nature of an experiment without any parallel in history in any age or clime. It is true that in ancient times there was in the country a crude system akin to popular government, but it was mainly rural in character and never developed into a system of administration for the country as a whole. Further, and this is a very important point to remember, the system dealt with a homogeneous population amongst whom communal feuds were wholly unknown. Had the history of India been a peaceful record of political progress, village-self-government might have perhaps developed into a system congenial to the genius and spirit of the people. But the successive waves of foreign invasions that swept over the country at different times hindered the natural growth and development of the system. These foreign invasions introduced a large foreign element into the population and marred its homogenity, with the result that at the present moment India is a vast congeries of distinct races and communities in unequal stages of political development.

In circumstances like this, the introduction of representative institutions raises complications of the gravest character. It is evident that under the conditions prevailing in a modern province, those alone would get into power under a system of representative government who are ahead of the rest in education and all other matters which determine the selection of those in whose hands authority is to be vested. If, therefore, responsible government were introduced in this country without proper limitations and safeguards, the transference of power to popular control would mean the domination of one particular community over other less advanced communities. Those acquainted with the intense feelings of animosity and antagonism with which different communities look upon one another will at once realise the effects of such a contingency. Nowhere, at any time in the world's history, has the experiment of responsible government been tried amongst warring creeds and communities. Prudence therefore dictates a policy of caution in all attempts to introduce responsible government in the midst of a people composed of diverse communities, and the best and the safest way of trying the experiment is by watching how it works in a limited sphere. This is the real justification for the provision of dyarchy as a first step towards the grant of full responsible government, as it enables us to judge how far, within the limits of dyarchy, the grant of responsible power to a heterogenous people is consistent with the safety of varied and conflicting interests. Dyarchy, with all its faults, is therefore an essential and indispensible first step towards the attainment of full responsible government by the peoples of India. It not only affords a valuable training ground to the peoples but enables the experiment to be tried with the minimum risks to the public interests.

But even the limitation of the field of Government is not enough to protect the weaker communities from the arbitrary exercise of power by the stronger communities. Proper safe-guards must be provided in the constitution itself for the adequate representation of various communities. This is the justification for a system of communal representation through communal electorates. I refer to this point because I find a tendency on the part of some witnesses to deprecate communal representation.

I am therefore strongly in favour of the retention of Dyarchy in the constitution and opposed to the immediate grant of full responsible government for the following reasons :—

(*a*) The introduction of a system of responsible government amongst a heterogenous people like what exists in India is in the nature of a novel experiment ;

(*b*) The experiment is beset with dangers and the best way of watching it is by restricting the field of work. This is the principle underlying the provision of Dyarchy ;

(*c*) Dyarchy has not had a fair trial at all. During the first period of the Reformed Councils, a large portion of the population held aloof and full opportunity for observation was not afforded. During the second term, a large section entered the Councils with the deliberate object of wrecking the constitution ;

(*d*) Responsible government is possible only with a sufficiently well-educated electorate. This essential condition is wanting in India ;

(*e*) Not only should the electorate be educated enough to understand the significance and potentiality of the vote, but the members of the legislature should also understand their proper functions. It is sadly lacking in our present Councils.

I now proceed to consider the objections to Dyarchy that arise, or are said to arise, from defects in the constitution itself. I must begin by saying that I entirely disagree with those who have declared that the Secretaries to Government and other officials often hamper Ministers in the administration of the transferred subjects and, in extreme cases, get the Ministers' decisions upset by surreptitious appeals to the Governors. My own experience has been otherwise. During the whole term of my office as a Minister, brief though it has been, I can recall nothing more pleasant than the memory of my associations with the Secretaries to Government Heads of Departments and other permanent officials. Frictions between Secretaries and other officials on the one hand, and the Ministers on the other, can arise from various causes. I have no doubt that if the Ministers deal with the Secretaries in a friendly spirit, the Secretaries will also gladly reciprocate the kindly feelings, and work is bound to go on smoothly. If however the Ministers assume a supercilous air, it will be only human if the Secretaries resent such an attitude. After all, the Secretaries and the other officials with whom the Ministers come into contact are officials of high standing and, in all cases, of exceptional merit and ability with a knowledge of the details of administration in which the Ministers must necessarily be lacking. And this brings me to a very important point which is often overlooked in considering the relations between the Ministers and the Secretaries to Government. The Secretaries, generally speaking, do not belong to any of the contending communities in India, and have all been brought up in an atmosphere free from partiality and prejudice. In course of time, they become naturally accustomed to look at things from a detached point of view, unaffected by any bias in favour of any particular class or community. Ministers on the other hand belong to one or other of the contending communities in India, and however much they try to hold the scales even; they are prone to be influenced by political prejudices and even by unconscious leaning towards their own community. In such cases, it would be the clear duty of the Secretaries and other permanent

officials of Government to intervene and prevent any possible injury to public interests. It is quite likely that some of the alleged cases of frictions between Ministers and their Secretaries belong to this class. The prejudiced eyes of the Ministers may not enable them to see many matters which are plain to the experienced and unprejudiced eyes of permanent officials in the Government.

I come now to the alleged difficulties which the Ministers feel in carrying out their policy in consequence of lack of adequate funds at their disposal. Though I agree generally that the complaint is not without foundation, I do not admit that the Finance Members are responsible for hampering the Ministers in their work. I do not admit that even with the slender resources at the disposal of the Ministers nothing can at all be done. Of course if we had more money, we could do more, but it does not follow that we can do nothing because we have not got as much money as we would like to have. So far Bengal is concerned, I can say that it is not true that the Reserved Departments absorb most of the money while the Transferred Subjects are practically starved. The real truth is that all the departments, reserved or transferred, suffer equally from lack of funds. In Bengal this is mainly due to the inequitous Meston Settlement which cripples our resources and sits like a nightmare on our chest. This is our real difficulty in Bengal, and unless the wrong done to us is righted, I do not see how the administration as a whole can be kept going very long in working order. I am strongly of opinion that in order to restore financial equilibrium to Bengal, the following steps should at once be taken as an act of bare justice to the province :—

(1) The Meston Settlement should be revised and Bengal should be freed from the heavy yearly contribution imposed upon it;

(2) The proceeds of the Income Tax should once again be handed over to Bengal in its entirety ;

(3) The Jute Tax should be handed over to Bengal.

I have noticed that some witnesses have urged that something like an unified government should be introduced in order to give Ministers an equal chance with Members of the Executive Council in securing funds for their departments. In Bengal such a system has already been worked by H. E. Lord Lytton. Whatever may be the practice in other provinces, the system adopted by His Excellency Lord Lytton in Bengal hardly justifies any complaint on the part of the Ministers. Lord Lytton's practice has been to have combined meetings of Ministers and Members of the Executive Council and at such meetings Members and Ministers are required to put forward schemes or practical suggestions for expenditure in the departments controlled by each. The entire Government sitting together decide the real importance and urgency of all the various schemes and these approved schemes are then marked out for being financed in regular order. The Finance Member is asked to declare how much money is available in the public coffers and the entire Government as a whole declares how money is to be expended on each item of expenditure. It is clear therefore that, under such a system, each member or Minister has an equal chance and it depends on him whether he can make out a case for any scheme that he may have in hand. It is his fault if he fails to convince his colleagues in the Government ; he would not then be justified in attributing his failure to secure money to the parsimoniousness of the Finance Member.

A. K. FAZLUL HUQ.

Memorandum by Mr. A. K. Ghuznavi, ex-Minister, Bengal.

When the Government of India Act was framed it was expected that most politically minded countrymen of ours would join together in active co-operation in an attempt to work this Act successfully. Experience however, has falsified those anticipations. Mr. Montagu and his supporters and many of our countrymen looked upon this Act as a boon for it was to pave the way for transfer of the Government to the people of the Country. Democratic institutions as understood in the West are not indigenous to the East, though, strange as it may seem, it was in the East that Islam ushered forth the conception of democracy in its purest form. Liberty, Equality and Fraternity were embodied in the words "Innama-ul-Mominuna ikhwatun", *i.e.*, all believers are brethren. With the birth of the Islamic Democracy the spirit of those words was inculcated in the masses, and while this spirit pervaded the masses, democratic institutions flourished. With the waning of this spirit the Khaliphate was transferred into a Monarchy and thereafter to a benevolent autocracy.

Democratic Government has hitherto flourished where there is homogeneity in religious beliefs and in social customs and where there is absence of any pronounced racial rivalries. These conditions are wanting in India at present.

No one now doubts that no advancement towards Self-Government is possible without Hindu-Moslem Unity. But there is unfortunately a large section of Hindus who while professing outwardly their faith in Hindu-Moslem Unity are trying in subtle ways to capture all civil powers for themselves to the ultimate detriment of the Moslem Community. Their idea is that the British Army must stay to protect India against foreign invasion and to keep the peace, while all internal civil powers should be captured by them. To attain their objects they must secure sufficient amount of Moslem support. This section of our countrymen is imbued with the deadliest hate for the Britishers and the British connection and with more or less ill-concealed hatred for Moslems as well. Believing that if they can only succeed in wrecking the present Constitution the British people and the Labour Government will be forced to placate them by giving them further and much larger instalments of Self-Government, they have at last destroyed that feature of the Government of India Act, which conceded substantial powers to the representatives of the people. How this will lead the Country to their professed goal, it is difficult to see.

In the first Legislative Council which was more or less shunned by the Swarajists, there was a general desire on the part of the Indian Members not merely to support the transferred departments but to see that the activities especially in the direction of combatting diseases, ignorance and poverty were greatly expanded. In the present Council however there was no such desire on the part of the Swarajists whose

one aim was to shatter the Constitution by ousting the ministers by means fair or foul and obstructing the general machinery of Government. The need for adopting adequate safeguards against such suicidally destructive tendencies has been made abundantly clear, and appropriate changes must be made in the rules and to some extent in the Act itself.

As already stated I do not claim that the Government of India Act of 1919 is a perfect document and I agree that it admits of improvements. I only insist that it must be worked for the full statutory period after making the necessary amendments, because it contains the basic materials upon which the structure of the Indian constitution will eventually have to be laid. It is certainly a wise statesmanship that before launching a full scheme of responsible government, we should be trained in the art of Government by a representative Council of which we had had no previous experience. In a country like ours this training in the exercise of powers conferred in gradual stages is essential, as multifarious interests of various communities are involved in the administration.

I now proceed to discuss the changes which I would like to suggest.

I.—Franchise.

In the Montagu-Chelmsford report we read :—" The much larger electorates that will now be set up, though still a mere fraction of the population will be devoid of political experience. The habit of considering political issues to be decided by a man's own judgment, or realising the value of the proper use of a vote and of judging candidates with regard to their fitness to represent the electors views, have all to be acquired..... These difficulties will be increased by the general lack of education."

The framers of the electoral rules, fixed the qualifications so low that it conferred the vote on thousands of illiterate and easily misled villagers. The majority of villagers are in the clutches of mofussil money lenders and petty lawyers. The result has been that in the case at least of some constituencies a set of half educated irresponsible persons have got into the Council.

There are two alternative remedies. Either the franchise qualifications should be sufficiently raised in order to ensure a better class of electors or if the present qualifications are retained, then I would suggest the formation of electoral colleges for every sub-division which will alone be competent to send an allotted number of representatives to the Council. These colleges will be formed by the present electorate under the existing rules. Strength of the colleges may roughly be $\frac{1}{10}$th or $\frac{1}{15}$th of the total primary electors. Elections to these colleges might be on a territorial basis, the union Board area where such Boards exist and Local Boards elsewhere being taken as unit for this purpose. I would advocate the latter alternative as it appears to have two main advantages :—

(1) It will promote solidarity and local patriotism among the aggregates of union Boards which elect to a particular college; and

(2) it will eliminate from the final decision persons of less than average political sagacity.

II.—Constituencies.

(*a*) It was wisely decided to be essential that there should be special communal electorates in Bengal and the rest of India. But a very great wrong has been done by the rules framed under this Act to the Muhammadans of Bengal who form 55 per cent. of the population of this province by assigning to them a position of minority in the Council. This was done in spite of the protest of the representatives of the Community and the Government of India itself and this in our opinion has contributed in various ways to the serious political troubles of which Bengal has become the centre. For the sake not merely of the 25 millions of Moslems of Bengal but in the interest of good government and the British peoples' reputation for fair dealing this wrong should be righted without delay and the Muhammadans who form a majority of the population should have assigned to them a majority of the elected Indian seats.

(*b*) The plural constituencies should be done away with. Each constituency should not send more than one member.

(*c*) I am strongly of opinion that there is no *raison d' etre* for having landholders' constituencies. The landholders can very well get themselves returned from the General Constituencies, as in fact they do at present.

III.—Term of Council.

Election has become an expensive business. Even if steps are taken to reduce corrupt practices to an absolute minimum and the system of electoral college is established, yet in the public interest it would be desirable to extend the term of the Council to 5 years. There is also another strong reason in favour of this suggestion. A period of 3 years is scarcely enough to enable a minister and his party to carry to a successful termination any policies or schemes which he cares to formulate and develop, and it also stands in the way of efficiency in the administration.

IV.—Appointment of Ministers.

Various suggestions have been made regarding the appointment of Ministers. In this connection I am of opinion that so long as our Legislative Council is not organised on party lines the appointment of Ministers should be in the hands of the Governor who will appoint them in consideration of their ability, intrinsic merit, as well as the claims of the different communities, and the numerical strength of each party. The real growth of a national feeling in the country will only be ascertained when a party composed of representatives of all classes of constituencies with a clear majority will be formed in our legislative body. It would then be possible for the Governor to relinquish the power of appointing Ministers and call upon the leader of the strongest party to form a Ministry.

Government on party lines is now recognised as one of the best forms of democratic machinery. As we are following the British system of Democratic Government, ours will ultimately, I have no doubt, be started on party lines as in the colonies. But our present difficulties are numerous. In a country peopled by a homogenous race it is not difficult to form a majority party in the legislature as it is in a country like ours where the interests of different communities are intermingled in the administration. In the former a party man has to abide by his party obligations only but in the latter he has also to attend to his distinctive communal interests which is unavoidably necessary for him to do owing to differences in religion and social customs. These two obligations must be adjusted in such a way that instead of being antagonistic they may be helpful to the general well-being of the Country. This difficulty has probably led some to suggest the abolition of the separate electorate system. But however theoretically attractive, abolition of separate electorate system is not tenable in the present state of the country because it will only create a muddle in our political life and will be used as a weapon of coercion by the major community against the minor. I do not believe that separate electorate system stands in the way of the larger interests of the Country or of the healthy evolution of our national ideals, whereas it is certainly a safeguard against the usurpation and misuse of administrative powers by one single major community.

V.—Finance, Inner-working.

(*a*) Under rule 37 (*g*) (3), it is the duty of the Finance Department in connection with the budget and supplementary estimates to examine and advise on all schemes of new expenditure for which it is proposed to make provision in the estimates, and they are authorised to decline to provide in the estimates for any schemes which have not been so examined. Presumably the intention in framing this rule was that waste of money through the adoption of immature and unsound schemes was to be avoided, and the Finance Department was considered to be in a position to guard against such waste, through its power of examination and declining to provide for any schemes for new expenditure not examined by them. On the other hand, the whole intention of the Government of India Act is that Ministers should be left free to pursue a definite policy of their own, for which they are to be responsible to the Legislative Council. In practice, it has been found that the Devolution Rule referred to above has had the effect of vesting excessive powers in the Finance Department. The financial examination of schemes is regarded as implying a minute and meticulous scrutiny by the Finance Department of the smallest technical details of each project which would be better left to the discretion of the administrative department. In fact the Finance Department have practically placed themselves in the position of experts in every department instead of confining themselves to the more general aspects of each scheme in its financial bearings which appears to have been the intention of the framers of the Government of India Act. The result is that Ministers are only too often unable to carry through their schemes in the form approved by them and in which they are put by the heads of departments and other expert officers, who alone are in a position to judge as to the soundness or otherwise of such schemes. The rules should be changed so as to limit the powers of the Finance Department.

Under the present procedure, which is explained in section 294 of the Secretariat instructions, even after a scheme has been sanctioned with the approval of the Finance Department and money provided in the budget, no expenditure of a recurring nature can be incurred without the consent of the Finance Department, which should have no power to interfere with the discretion of the administrative department to incur expenditure within the limit of the budget grant. The administrative department should also be given power to make reappropriation within its budget allotment from one minor head to another without reference to the Finance Department. The absurd position at present is obvious from the fact that a Minister in charge of a department has not the power to transfer even one rupee from one minor head to another without submitting the case to the Finance Department for their approval.

(*b*) In order to allow the Ministers the necessary discretion in the matter of formulating their policies and carrying them out, it must be ensured that sufficient funds are placed at their disposal. The practice at present in vogue is that the purse being common, both sides sit together and settle the budget. In this connection a reference is invited to the report of the Joint Select Committee on clause 1 of the Government of India Bill of 1919 where they recommended that the Governor should allocate a definite proportion of revenue to the transferred subjects and also a definite proportion of the balance. I am of opinion that Ministers should be given an adequate separate purse for the transferred subjects under their charge. Certain sources of revenue may be set apart for this purpose. A special Financial Secretary as provided by Devolution Rule 36 should be appointed to look after the Finance of the Transferred Departments. If this were done, the friction which is found to exist between the Finance Department and the transferred departments in various provinces would tend to disappear, and the Ministers would have a fair chance of carrying out their responsibility to the Legislative Council by formulating their schemes and putting them into action.

VI.—Attitude of the Governor and Official Secretaries.

(*a*) Mr. Kelkar and Mr. Chitnavis, ex-Ministers of the Central Provinces, seemed to have complained furiously of their Secretaries' undue privileges and of the Governor's improper interference. In my opinion the remedy for this depends more upon the personality of the Minister than an alteration in the rules. In Bengal we had hardly any occasion to complain of this. Here we had not to work between a dominating Governor and an obstructive officialdom. On the contrary, speaking for myself, I can say this, that no Minister or Member, as far as I know, had the privilege of working simultaneously with three Secretaries and a large number of heads of departments, who were uniformly and devotedly loyal to him as they have been to me. I do not remember of even one solitary instance where the Secretaries did not faithfully co-operate and carry out my orders in the administration of the transferred Departments. We also received every sympathy and consideration from the Governor of the Province.

I endorse the view however that the administration of the transferred Departments by the representatives of the people has not yet been given a complete trial and in my opinion the next step which should be taken to widen the constitution should be in the direction of making the ministers

independent of the control of the Governor and of making them rely for the support of their policy and administration entirely on the elected members of the Legislative Council.

VII.—Minister's position with respect to reserved subjects.

It has been said that he is not usually consulted regarding his views about the administration of these subjects. In Bengal His Excellency Lord Lytton has set an example which may be emulated with advantage in other provinces because here the Governor afforded every facility for the discussion of policy of the reserved subjects at joint meetings of ministers, and members of the executive Council. It should however be distinctly understood that the ministers are in no way responsible for the policy of the reserved departments though at the same time they should be freely consulted in all matters.

VIII.—Corrupt practices.

In the electoral rules, provision has been made against corrupt practices. While if necessary, steps should be taken to make the rules still more stringent against what are really corrupt practices, they should be relaxed so as to enable candidates to conduct their election without having to resort to subterfuges for evading the rules. A candidate for instance, is not allowed to use hired conveyances or even to supply refreshments. This should not come under the category of corrupt practices.

Corrupt practices have also crept into our Councils. If there are representatives of the people who stood so low as to sacrifice their principles and convictions for a consideration, Government would be lacking in their duty if adequate provisions against such delinquencies are not adopted. Stricter rules regulating the conduct of our legislators should be framed.

IX.—Electoral Rules.

(*a*) In the Electoral Rules it is laid down that an illiterate voter is to whisper to the polling officer the name of a particular candidate or candidates for whom he wishes to vote. Having regard to the large number of polling officers that have to be employed, it often becomes necessary to employ sub-Registrars and even Marriage Registrars to perform the function of polling officers. It has come to my knowledge from very reliable sources that in many instances in the last election, some of these officers were guilty of improper conduct, inasmuch as they sided with one or other candidate and put cross marks against the names of candidates other than those for whom the particular voters desired to vote. The ballotting agency should be radically improved and some other system of recording be introduced which will render such malpractices difficult.

(*b*) In many instances polling was timed to begin at 10 o'clock and all voters were required to be within the polling enclosure by 3 P.M. The habit in the mofussil for villagers is to take their day meal at one o'clock, and, in cases where voters had to come to the polling booths from a distance of 10 or 12 miles, they often reached after 4 o'clock, with the result that their votes could not be recorded. I would, therefore suggest that the polling hours should be extended to at least 6 P.M.

(*c*) Moslem voters are particular in saying their *namas*. The assar prayers have got to be said between the hours of 3 to 5 P.M. and maghrab (evening) prayers in winter at about 5 P.M. and in summer at about 7 P.M. Provision should be made in the case of those electors, who have once entered the polling station, so that when they have finished their prayers, they may again enter the polling enclosure and record their votes. It has often been brought to my notice that for want of these facilities during the last election thousands of Moslem voters who had entered the polling enclosures, and had gone out to say their prayers, were not allowed to re-enter the enclosures, with the result that their votes were not recorded.

X.—Jurisdiction of the High Court.

Section 110 of the Government of India Act should be amended, so as to exempt the President of the Council from the original judicial jurisdiction of the High Court for anything ruled, advised or done in his public capacity. This will strengthen his hands in frustrating the designs of those who have entered the Council with the avowed object of wrecking it. From the recent happenings in Bengal, the need for exempting the President will be apparent.

XI.—President of the Governor's Council.

Under section 72C of the Government of India Act, after the expiration of four years from the first meeting of the Council under the Act, the President will be a member of the Council elected by the Council and approved by His Excellency the Governor.

This provision would obviously furnish the obstructionists with another handle for creating a deadlock, as they may elect a President who may not be a desirable person and whom the Governor may not approve, but who may even after the Governor's disapproval be re-elected by an obstructionist majority. In view of this, as well as in view of the fact that Indian politicians are not yet well seasoned in parliamentary procedure and usages and may utilise the power of the Speaker for their political ends, it is desirable to extend the period of four years mentioned in sub-section (1) of Section 72C by another four years, so as to make the grant of the privilege of election of President coincide with the next stage in the progressive realisation of responsible government at the end of the first statutory period.

SIMLA;
8th October 1924

A. K. GHUZNAVI,

Memorandum by Nawab Bahadur Syed Nawab Ali Chaudhury Khan Bahadur, ex-Minister, Bengal.

When I was invited to join the Ministry of Bengal under the new Government of India Act, I accepted office in the belief that the Ministers had to administer the transferred departments in accordance with the wishes of the representatives of the people in the Legislative Council. This also was the belief of a large section of educated Indians and is so still, founded on the intentions of the Government of India Act as repeatedly proclaimed by British statesmen. Few of us were inclined to examine the Act or the rules framed under it in a critical or suspicious spirit. It was that attitude of ours towards the reforms which distinguished us from the non-co-operators or extremists who saw nothing of constitutional value in the system of Government inaugurated by Mr. Montagu and Lord Chelmsford. Our political opponents in the country dwelt on past disappointments. We still had faith left in the *bona fides* of British statesmen and minimised the restrictions, limitations and 'safeguards' of the Act. We and our fellow representatives in the first Bengal Legislative Council were in fact inspired by a new faith and a fresh hope though naturally in some it was weaker and less steady than in the others.

We knew that we had to work under most difficult conditions. Thanks to the Jalianwala Bagh incident and the determination of British Government to dismember Turkey whose Sultan was then the acknowledged Caliph of Islam and to bring Jazirat-ul-Arab the sacred home of Islam under the domination of British and other non-Muslim powers, the whole country from one end to the other easily passed under the sway of non-co-operators so that it was absolutely impossible for the Ministers and others who had faith in the new regime and followed a policy of self-control and moderation to go out in the country, in order to educate the electorates in the methods of representative Government. It was not possible for supporters of British Government to secure even a hearing at a public meeting. To those who so glibly blame us in this connection, I would instance only one typical scene enacted below the steps of the Town Hall where Lord Ronaldshay presided over an open air public meeting in order to concert measures for the reception of the Prince of Wales. More or less secret propaganda for counteracting the Gandhi movement was all that was possible and no one can deny that we did all that we honourably and reasonably could do to help the Government at that crisis. Perhaps mine was the most difficult and unpleasant task namely the pacification of Muhammadans.

Inside the Government our position was almost equally preplexing. The transferred departments had been from time immemorial in charge of officials able, conscientious and highly educated but trained under the old system which, without meaning the least offence, could best be described as bureaucratic, efficient if you like but concerned more with the smooth running of the official machinery and technical perfection of method than giving effect to the desires and aspirations of the people. It was the wishes of the people which became our most important duty to carry out as faithfully as possible in our administration. The inevitable happened. In many cases after the Ministers had given the fullest consideration to the views of the Secretaries or of the heads of the different departments concerned,

they found themselves unable to accept them. Under the Rules, the Secretary would then take the case to the Governor who would *decide* the question giving such weight as he liked to the *advice* of the Ministers.

It came to this, while the Minister was responsible to the Legislative Council for his administration it was the Governor who had the final decision of almost all questions though he was very little in touch with the Council. This in practice proved an obviously unfair and untenable arrangement and it depended on the personal discretion of each Governor how much liberty of action he allowed to a particular Minister and what weight he attached to the opinion of the Council. In consequence of section 52 (3) and the rules of similar import and the practice that has been followed in Bengal, it became more and more a difficult task for the Minister to carry out any policy in accordance with the wishes of the legislature.

The next source of our difficulty was the financial position created by the Meston settlement and the absence of a separate purse. It is not necessary to dwell on the injustice of Meston Award for strong representations have been made more than once on the subject to the Government of India and this is one matter in which politicians of all shades of opinions in Bengal are wholly in agreement with the local Government. The Government of India refused to right this serious wrong to Bengal and driven to a corner we succeeded by enormous efforts to induce the Council to pass acts for raising additional revenues so that we might find some money for the vital activities of our departments which had hitherto been starved and were in a most elementary stage of development. Nevertheless, the resources of these departments are still woefully inadequate, while the people are in a state of chronic helpless poverty due mainly to lack of agricultural and industrial development. It is needless for me to point out that if the masses and the middle class have to be kept to the side of law and order, developments in Agricultural or Industrial directions for bettering their condition is of paramount necessity. This was not possible for the Ministers to do as the resources at their disposal were meagre and though I did my level best to get on, Finance Department stood in the way and starved my earnest efforts by overfeeding the Reserved Departments in many cases ; without more financial powers or greater independence of action, Ministers are not likely to be ever popular ; the necessity of a Joint Financial Secretary and a division of Finances into Reserved and Transferred heads cannot be exaggerated. The ravages of Malaria and Kala-azar threaten to depopulate the province of which 90 per cent. of the population are without any education.

Nor were the Ministers satisfied with the attitude and procedure of the finance department. That department greatly hampered the transferred departments by contriving in various ways to exercise control over the schemes prepared by the Ministers and in the scramble that took place at the joint meetings when the Budget was settled the Ministers always carried away an unpleasant feeling that it was impossible to assess the comparative value of the numerous projects of the different departments on the reserved side competing for allotments. They had to be content with what they got. It is not the lean and hungry dog but the pampered poodle that gets the meat. A separate purse is an absolute necessity.

One of the worst difficulties we had to contend with in our relations to the people's representatives in the Council was the way that we got mixed up with questions arising in the reserved departments. I do not

wish to lay the blame for this at the door of anyone. The fact that the Ministers were responsible to the Legislative Council, while the members in charge of the reserved departments were responsible to the British Parliament, was not fully borne in mind by any of the parties concerned and the ready availability of the official and nominated votes largely contributed to the confusion. This confusion reached its maximum with the increased habit to hold joint meetings of the two halves of the Government. The public received the impression that in all matters of policy of the reserved departments, the Ministers were equally responsible with the Governor in Council while in fact they had no opportunity of acquainting themselves with the administration of the reserved departments and there was no guarantee that they would be consulted and if consulted, their opinion would be accepted on any particular question appertaining to those departments. Further, once an important step had been taken by the Government in a reserved department, it became almost impossible for the Ministers in these circumstances not to support it in the Council.

If the intentions of the framers of the Government of India Act that the representatives of the people were to administer the transferred subjects and that they should have no effective control over the reserved subjects were faithfully carried out, we would have been to-day in a better position to say how far the Legislative Council was or was not capable of discharging that responsibility which the Parliament had definitely devolved on them. It is also possible that the Swarajist tactics would not have met with the success they did in Bengal if they did not get the chance which the mixing up of responsibilities gave them. The Swarajists came into the Council with the avowed object of forcing the hands of the British people to concede at once, full provincial autonomy and thought they would secure their object if they brought about a deadlock by means of the processes which the Government of India Act supplied. They refused to accept office in the present regime because they had given a pledge to their electors and the congress to that effect. But supposing they had accepted the offer of the Governor without honestly giving up their purpose to wreck the present constitution it would have been necessary so effectively to separate the two halves of the Government as to make them powerless to do any substantial harm to the administration of law and order and we would have then known how the representatives of the people in the Legislative Council administered the transferred subjects. Since, however, the largest party in the Council refused to accept office, being bent on obstruction pure and simple, the Governor tried the experiment of running the transferred departments with the help of Ministers who had to rely upon the official and nominated votes with such elected votes as they could scrape together as they went along. No one can say that the experiment has satisfied anyone including the Ministers themselves. The spectacle of Ministers without a majority in the Council which alone would enable them to assert their authority *vis-a-vis* the Governor and the permanent officials and at the joint meetings of the Government and holding their office for several months without any salary with a large number of their officials under notice of dismissal is most unedifying. Such a situation is obviously fraught with mischief.

If at the next session of the Council, the Government is defeated over the Minister's salary, the Ministers will have to resign and all the chances are that no ministry with a stabler position than the present one can be formed and the same course may to be adopted here

as in the Central Provinces. Even if the Ministry is saved by say 3 or 4 votes, it could not be desirable to prop up the Ministers mainly with official and nominated votes and I should doubt if the Ministers who have so gallantly fought for their position would care to continue any longer in office in those circumstances. The best course would be to dissolve the Council but only after amending some of the glaring anomalies in the franchise of Bengal which in my opinion, if we dive below the surface of things, are more responsible for the unsatisfactory position in this Province than anything else. Unless the franchise be amended on the lines I am suggesting, the same situation will be repeated in an aggravated form.

Communal franchise is in the circumstances of India rightly recognised as a necessity and I should like to impress upon English statesmen the fact that the Hindus and Muhammadans not merely by their religions but by their respective histories, traditions and cultures, their personal laws, social customs and usages which have given the two communities such widely different outlooks on life with no common social ties, sympathies or amenities, are in fact two distinct peoples and they so regard themselves though they have lived in the same country for centuries and in spite of the efforts of most of the great Moghul Rulers to bring about a fusion. I lay no stress on the communal outbreaks due to the latent forces of hostility in certain sections of the two communities. Nor it is my intention to suggest that because of the existence of these two distinct communities, it is not possible to work a system of responsible self-government. What I mean is that if responsible Government in India is practicable otherwise, this fact though it may add to the difficulty should not rule it out. If the conflicting interests of landed aristocracy and those of capital and labour could give rise to great political parties in England, Europe and America and these parties while in fact representing sharply divided classes could work together for the good of their common country each contributing in its turn to the political wisdom of the nation, I do not find it difficult to conceive that the representatives of the Hindus and the Muhammadans, with their distinctive genius and outlook in life should by mutual stimulation with their competing ideals by compromise where necessary and by that sense of fairness and justice which even if not strong initially is likely to be promoted under the pressure of public discussion and criticism should similarly work for the advancement of this country. But it is necessary that each community should be given a fair chance. If one community, for instance, supplied the economic prudence and calculation needed for stability, legal acumen and power of debate the other community might contribute boldness of conception and design, a truly liberal and democratic sympathy and a greater vigour and strength in the administration. An adequate representation of the Europeans in Bengal is equally essential for my purpose. Quite apart from the question of protection of their interests—I want, indeed to minimise fighting for class interests as far as possible—their presence in the Council will be very valuable, for they will supply the modern business methods, a greater sense of moderation and fair play, an experience of the larger world conditions and a better appreciation of the economic forces and the trend of events generally in Europe, all of which are necessary if we are to avoid pitfalls and tide over many difficulties that beset all representative institutions.

Communal representation being recognised as a necessity, the gross injustice that has been done to the Muhammadans of Bengal by definitely assigning them to the position of a minority in the Council while the form

a majority of the population, must be remedied at once. I and other representatives of the Muhammadans of Bengal had strenuously opposed the proposal of the Lucknow Pact in this connection and the Government of India supported us. Now the Muhammadans all over India as represented at the last meeting of the Moslem League have unanimously condemned this unfair arrangement. The Muhammadans of Bengal have steadily and almost uninterruptedly lost ground, ever since the day Mir Jaffir handed over Bengal to the East India Company and if a section of the community have now made common cause with the Swarajists who are the enemies of British connection with India, it is owing to the sense of despair which is fast spreading in the community. It is time that Government made amends and the first thing necessary is to raise the proportion of Muhammadan seats in the Council to the level of their population. The next amendment of the franchise that is urgently called for, is the doing away with the ' special ' constituencies. I cannot conceive of any justification for giving to the landholders, moneylenders and traders of Bengal the most influential classes in the province special constituencies, while in fact many if not most of the members returned by the general constituencies belong to these very classes. The bigger landholders most of whom are Hindus, have with but one or two honourable exception proved very poor broken reeds for Government to rely on. They are in league with the Swarajists, whose Exchequers they fill with money and they vote mostly with them in the Council. And I am sure after what has happened, no one will any longer justify the special franchise granted to the Bengal National Chamber of Commerce, the Marwari Chamber and the Mahajan Sabha. I would retain the special franchise only of the two Universities. To the Europeans I would give representation through direct communal constituencies if they can be worked out, instead of through Chamber of Commerce, Trades Association and so on.

What I suggest therefore is, that the Government should proclaim in the clearest and most emphatic manner possible that no further amendment of the present constitution will be made at present except what is necessary for absolutely separating the administration of the transferred subjects from that of the reserved subjects so that the Ministers will be in no way responsible for the policy of the Governor in Council and *vice versa*. The supervision and control of the Governor over the former will be withdrawn ; only his emergency powers will be maintained. The Secretaries and other officials of the transferred departments will be entirely under the control of the Ministers. There will be a separate purse for their departments which will as far as possible be financially self-contained. The Meston Award will be modified. Communal electorates will remain so long as the Hindus and Muhammadans do not with one united voice demand common electorates and the number of seats allotted to each community will till then be in proportion to the strength of their respective populations. It may also be announced that if the proposed advance in responsible Government in the transferred subjects which will be tried for the life of two more Councils ends in failure, further attempts in that direction will be abandoned until such time as may appear to be more suitable.

If, on the other hand, the experiment succeeds in any provinces full responsible Government will be granted in those provinces.

To mention some of the details :—

(1) Section 52, clause 3 of the Act will have to be amended and also Section 49 clause 2 so that the rules cannot be framed

without the approval of the Ministers. The Bengal Electoral Rules should be amended in accordance with the above suggestions.

(2) Section 72 (c) should be so amended that the President of the Legislative Council shall for the life of two next Councils be a person appointed by the Governor. This is essential in view of the conditions in Bengal.

(3) The Meston Award and the Devolution Rules should be modified in such a way as to make the duty on jute as well as the income tax on incomes derived from the different sources in Bengal available for the provincial revenues.

(4) The High Court must be placed under the control of the provincial Government and the Bengal Civil Courts Act should be so amended as to vest in the Bengal Government the power to recruit officers for the provincial judicial service.

(5) Land Acquisition and Industrial matters mentioned under heads A, B, C, D & G of Rule 26 of Part II of Schedule I of the Devolution Rules should be subject to legislation by the provincial legislature.

(6) Rule 12 of the Devolution Rules should be so modified as to make the local Government independent of the Secretary of State in Council as regards appointment of the Indian Medical Service Officers in the Civil Department of Bengal.

Memorandum by Mr. A. Marr, Financial Secretary to the Government of Bengal.

1. From the published accounts of the evidence given before the Reforms Enquiry Committee it appears that certain witnesses have maintained that under the Reforms Constitution the Finance Department have too great powers and have been obstructive, especially to the schemes of the Transferred Departments under Ministers. The Government of Bengal desire to correct this impression, at any rate as far as Bengal is concerned.

2. The impression has apparently been conveyed that under the Reforms Constitution the Finance Department have much greater powers than they had in pre-Reform days. This is not the case. Under the old system budgetting officers, in framing their budget estimates, used to include all new schemes, whether sanctioned or not sanctioned, which they proposed to introduce in the ensuing budget. Along with these budget estimates three sets of Schedules were submitted, containing new schemes approved by Government;

(*i*) the maximum cost of which was less than Rs. 5,000;

(*ii*) schemes costing more than Rs. 5,000; and

(*iii*) schemes which had not been approved by Government.

The Administrative Departments concerned examined the urgency and desirability of the new schemes proposed by the Heads of Departments and advised the Finance Department about the question of allowing them to remain in the budget. The first edition of the budget, therefore, contained provision for all obligatory expenditure as well as for new approved and un-approved schemes which the Finance Department had allowed to stand in the budget in consultation with the Administrative Departments. On receipt of the orders of the Government of India on the first edition of the budget showing the unallotted amounts remaining for new expenditure, a meeting of the Secretaries and Heads of Departments was held, which was presided over by the Finance Member and which advised as to the distribution of the unallotted sum. The orders of the Governor were then taken on these recommendations and the proposals were laid before the Finance Committee of the Legislative Council. The recommendations of the Finance Committee were then considered by the Finance Member before the budget was presented to the Council.

3. I have detailed at some length the old procedure in order to show how essentially different it is from the present procedure. Throughout the old procedure the Finance Department had a great deal of say in the final decision as to which new schemes should go into the next year's budget. Finally, under the old procedure the Finance Department had the very important power of being able to reappropriate savings under one major head towards schemes under another major head as long as the total provisional budget was not exceeded.

4. Under the Reforms Government, in the first place, the Finance Department have lost the power last mentioned. They have no power now to transfer any voted money from one major head (which in Bengal is equivalent to a demand) to another major head, without the sanction of the Legislative Council. In the second place, the position and powers of the Finance Department are now definitely regulated by rules. Rules 36 *et seq.* of the Devolution Rules lay down the powers of the Finance Department. One of the most important of these rules is Rule 37 (*g*) (*iii*) under which "it (the Finance Department) shall examine and advise on all schemes of new expenditure for which it is proposed to make provision in the estimates, and shall decline to provide in the estimates for any scheme which has not been so examined."

It is to be noted that this rule is mandatory and not permissive. It is this rule which other departments, and especially the Transferred Departments, have apparently found difficult to understand or to follow. It is because the Finance Department in Bengal in the last two years have tried to follow this rule strictly that they have been said to be obstructive.

The rule as it stands appears to be quite clear. When a Department has drawn up a scheme of new expenditure, which it wishes to introduce into the ensuing budget, the scheme must be thoroughly examined first by the Administrative Department and then sent in good time to the Finance Department for examination. If the scheme has been properly prepared and is in order the Finance Department have now not the power to turn it down. They must accept such a scheme for the schedules of the new budget and then it would be for Government, when considering Schedules, to say whether provision should be made in the budget estimates for that particular scheme or not.

5. In order to arrive at a definite programme of work, His Excellency Lord Lytton, soon after he took over the reins of office, asked each department to draw up a line of policy along which the department would be developed; to have that policy discussed and finally accepted by Government. The next step would have been to frame a programme of schemes of new expenditure necessary to carry out that Policy. If this had been done by all departments, the work of the Finance Department, in examining schemes under Rule 37 (*g*) (*iii*) of the Devolution Rules, would have been greatly lightened as, the policy already having been determined, all that the Finance Department would have had to do was to see that that particular scheme was in accordance with the policy. The only departments that have to any extent carried out His Excellency's wishes in this matter are—

(*a*) the police Department with their Calcutta housing scheme; and

(*b*) the Education Department with their schemes for Panchayati Union and Biss Primary Schools.

With regard to both these items the experience of the Finance Department has been that, since those programmes have been laid down, it has been very much simpler for them to examine schemes carrying out those programmes.

6. It has been apparently stated to the Committee that when the Finance Department overrules a Minister the Minister has no remedy. This is not the case in Bengal. If a Transferred Department without taking the orders of

the Minister sends a case to the Finance Department and the Finance Department turns it down, the Minister in charge of that department can always take the case to the Finance Member and if he gets no satisfaction from him he has always the power of taking it to His Excellency. In the same way if the Finance Member turns down a case on which the Minister in charge of a Department has noted, that Minister can always take the case to His Excellency. Rules 15 (3), 27(3), 31, 36, 37 and 38(3) of the Government of Bengal Rules of Business provide for the different cases in which the orders of the Governor may be taken in cases of differences of opinion between Member and Member or Member and Minister.

7. Finally, the financial stringency in Bengal has necessarily imposed a duty on the Finance Department of being very careful indeed as to the admission of new expenditure in the budget, and undoubtedly this has given rise to a certain amount of grumbling amongst the different departments, especially the Transferred Departments, because they were not given an opportunity of developing their larger schemes of expenditure. If ample funds had been available, probably we should have had no complaints against the Finance Department.

The 21st October 1924. A. MARR.

Memorandum of the Central Administration European Association, Calcutta.

1. The European Association is vitally interested in the peaceful political progress of India since as it recently stated in a letter to the Secretary of State for India "The Indian Empire of to-day is a joint British-Indian undertaking to which the British have supplied the vastly larger part of the initiative, efficiency, work and finance necessary for bringing the Empire to its present point of development."

2. Throughout the Association has been one of the foremost critics of the Montford Reforms, though since the introduction of the Government of India Act they have loyally shown that co-operation which is the very essence of the Act and without which even partial success is impossible.

3. The Association is, however, unable to view the system of Government as introduced by the Reforms as other than experimental and has held that the first transitional period of ten years as laid down by the Government of India Act should not be shortened since the time thus allotted for review of the system was not too generous to ensure an efficient test of the new machinery. The Association holds that this opinion has been amply justified by the change which has been introduced in the political situation since the last general election by the decision of the elected majority in some provinces to refuse constitutional responsibility under the Government of India Act.

4. The first period of 3 years proved, in the opinion of this Association, that the system of government introduced by the Government of India Act lies on the electoral basis provided by rules made under sections 64, but that the Reforms provided scope for development on constitutional lines given a spirit of true co-operation.

5. This brings the Association to its first criticism of the Government of India Act. It was prepared by its authors in the full expectation of co-operation.

Without that essential it cannot function as a representative form of government. Co-operation in our opinion postulates a desire on the part of Indians to work with the British Executive during the transitional period. That degree of co-operation has not been forthcoming except from the Moderates, and we do not believe that the Indian Swaraj party—if it is willing to work with Europeans at all—is willing to work with them on any basis other than that of complete subordination of the European Executive to themselves. This condition is not acceptable to those whose chief interest is a desire for stable government, nor to Government servants, the security of whose position can only be assured by the Secretary of State.

6. Our second criticism of the working of the Government of India Act lies on the electoral basis provided by rules made under sections 64, 72A and 129A. In our opinion experience of the working of the rules so made has, in so far as the Indians are concerned, resulted in a concentration of political power in one section of the community at the expense of the interests of true representation thus confirming non-official European opinion voiced when the Reforms were discussed and which the Government

of India thought worthy of record in paragraph 4 of its first despatch on Indian Constitutional Reforms dated March 5th 1919.

7. Further the experience so far available shows that the electorate are lamentably lacking in political sense and show little, if any, appreciation of the responsibilities which the franchise has conferred on them.

It appears to us that the franchise has been unduly extended and that training in the duties and responsibilities attaching to the vote should for the majority of the population have been confined to the sphere of local self-Government during the first transitional period. In our opinion an experiment on these lines would have had far more hope of success and would have suited the geographical limitations of the vast majority of the peoples of India. In these spheres there would have been some hope of the electorates realising the direct effect arising from the misuse of their power to vote.

8. Our third criticism is against the application of the system of divided responsibility known as dyarchy.

It appears to us that in effect the Act does not confer on the Councils in a sufficiently practical manner responsibility for those departments which it was the intention of the Act to transfer to their control whilst it affords them considerable power with regard to reserved subjects for which the Legislature has no responsibility.

9. Finally we consider that a serious error has been made in the development of the Central Legislature prior to the establishment of the fact that Provincial Legislatures can work satisfactorily.

We have previously stated that the geographical limitations of the average Indian make it desirable at present to confine his association with the government of the country to geographical spheres of which he has some (though even then limited) knowledge, and it appears to us from the preamble of the Government of India Act that this was the main intention of the framers of the Scheme of Reforms upon which the Government of India Act was based.

In our opinion the association of Indians with the Government of India with the exception possibly of the Executive should have been mainly in an advisory capacity pending the development of responsible government in the Provinces.

10. To sum up the views which we have stated thus far :—

A. We find the Government of India Act relies for its representative form on a spirit of co-operation which is either largely inactive or non-existent.

B. We find the electorate which has been constituted is small, largely uneducated, so far practically devoid of political sense, and intensely liable to be swayed by irresponsible agitation. The result has been to concentrate political power in the hands of a small body of men who avowedly put forward no constructive policy and do not represent the views of the majority. Such a system is in our opinion the very negation of representative Government.

C. We find the provisions as to the division of responsibility are unsatisfactory, the Act failing to affix to the Councils responsibility for those departments which it was the intention of the Act to transfer to their control, whilst they have been given power without responsibility in the reserved subjects.

D. We find finally that the Act has neglected the development of powers of self-government in those spheres which very closely affect the masses and has unduly accelerated a system of representation in the Central Government prior to satisfactory proof of the experiment in the provinces.

11. The terms of reference of your Committee appear to us to afford considerable opportunity for the adjustment of some of the points which we have criticised above.

Before discussing in detail recommendations which we suggest might improve the working of the Government of India Act, we desire to emphasise the democratic nature of our criticisms and recommendations.

Whilst realising that democracy as it is known in the West is not practical for India at present, and whilst full of doubt as to the possibility of securing fully representative legislatures by any electoral system our proposals for a truer representation of the peoples of India are based on essentially democratic principles. The recent utterances of certain depressed classes Associations and our knowledge of the caste system strengthen us in putting forward such views.

12. The Association doubts the possibility of producing by alteration of the rules that vital spirit of co-operation upon which the present Reforms are based. The Preamble of the Act lays down that Parliament will be guided by the co-operation, received from those on whom new opportunities of service will be conferred and by the extent to which it is found that confidence can be reposed in their sense of responsibility. Were responsible authorities to abide strictly by the principles therein enunciated and to refuse to listen to the representations of any other than those who had offered co-operation—and in this term we do not include those who have entered the Councils and the Assembly with the definite intention of wrecking them—a fuller measure of co-operation might be secured. But this policy needs to be made clear by a definite declaration by His Majesty's Government.

13. Readjustment of the electoral system framed under sections 64, 72A and 129A of the Government of India Act might gain a truer representation of Indians in the government of the country, where direct election for constituencies in which only a small proportion of the population is enfranchised under present qualifications, restricted to village panchayats, District Boards and Municipalities, and indirect election introduced for the Provincial Councils and Assembly.

This method which was formerly in force to a certain extent would tend to bring home to the electorate the responsibility of the franchise and would offer a definite connection between the people and the legislatures. We must add, however, that although such an amendment would improve the chances of the Act functioning as intended, we have no confidence that in the present circumstances any general system other than nomination by responsible bodies can ensure a truly representative legislature.

14. With regard to European representation, we strongly press for the direct representation of European Commerce and Industry in the Legislative Assembly, but are equally strongly averse to this being provided at the expense of the General constituency.

There are minor faults in the electoral rules which have hampered Europeans in the selection of suitable representatives. We refer to the difficulties attendant on nomination during the absence of some suitable

candidate from India on leave, and to the limitation in selection resulting from the six months' residential qualification.

We understand that the difficulties arising in connection with nomination can be overcome by the use of a power of attorney, and we would urge that an All India residential qualification, which should not be affected by temporary leave of absence from India be generally adopted for European representatives.

15. Generally it appears to us that the recomposition of the Legislature on some such basis as that suggested would secure truer representation of the peoples of India and might add to the general sense of responsibility of the House and we hope lead to a greater spirit of co-operation.

16. It would appear to us advisable that in the councils no discussion should take place on reserved subjects without special permission and that an improvement in the administration of transferred subjects might be possible by some adjustment of Budget procedure.

We realise that this point will form one of the main criticisms of many Indians, and, whilst hoping that some practical scheme to remedy this defect may be forthcoming, consider it essential that safeguards should be provided against any undue taxation of minorities.

17. Finally we come to the question of the Legislature in the Central Government. We feel strongly the inadvisability of granting the Assembly powers to discuss subjects which are reserved. Nothing in our opinion can be more unsatisfactory than to invite a discussion on some subject and then to refuse to act on the opinion resulting from that discussion. We recommend that the Assembly should only be given permission to discuss those subjects on which the Government is either desirous of gaining the views of the Assembly or is prepared to accept the decision of the House.

18. In conclusion we deprecate, prior to the expiry of the transitional period authorised by the Act, any amendments to the Act which may have the appearance of substituting Indian opposition for Indian co-operation as the criterion of fitness for advances towards responsible government.

Parliament has laid down definitely the standard by which it will judge the expediency of future progress in this direction and any suggested abandonment of that standard will but produce permanent instability in government and a feeling that anything can be obtained by agitation however unscrupulous. Vacillation in regard to the spirit of the Act will only serve to direct attention from constructive legislation to the question of amending the constitution and will bring dismay to those elements who are prepared to work towards the common goal of all parties by loyally giving effect to the intentions of Parliament.

Moreover, we are convinced that in adopting Indian co-operation as the gauge for political advancement, Parliament adopted the only safeguard for the interests of the British Empire and for the ultimate peace and security of the peoples of India.

Calcutta, 31st July 1924.

NOTE:—The above Memorandum was endorsed by the following branches of the Association:—

Punjab, Madras, Jamshedpur, Calcutta, Sind, Dooars, Darjeeling, North Behar, Kankinarrah, Cachar, United Provinces, Chittagong and East Bengal.

Memorandum of the Bengal Chamber of Commerce, Calcutta.

Letter no. 2038—1924, dated Royal Exchange, Calcutta, the 4th August 1924.

From—The Secretary, Bengal Chamber of Commerce,

To—The Secretary, Reforms Enquiry Committee.

The Committee of the Bengal Chamber of Commerce have observed from the Home Department's resolution no. F. 166-II-1924, dated 20th June 1924, that the Reforms Enquiry Committee are prepared to consider written evidence on the subject of its investigations.

2. According to the terms of the resolution the Committee will enquire into any difficulties or defects arising from, or inherent in, the working of the Government of India Act, and the rules under it; and they will likewise investigate the feasibility and the desirability of removing such difficulties or defects. With questions such as these the Bengal Chamber of Commerce, being essentially a commercial organisation, is not particularly well qualified to deal. It is admittedly in close touch with the central Government, and with the provincial Government, through its representative on the Council of State, and its representatives on the Bengal Legislative Council. But it is not so placed as to enable it to point to particular difficulties or defects in the working of a complicated constitutional law such as the Government of India Act. At the same time the members of the Chamber have always taken, and they still continue to take, a keen interest in the new system of administration which was introduced by the revision of the Act in 1919. The Committee of the Chamber feel therefore that although they may not be, and indeed are not, in a position to specify particular difficulties or defects, and to suggest remedies, they ought to set forth what they understand to be the views of the Chamber on the general results of the working of the new scheme of administration during the past three years.

3. When the proposals which were formulated by Lord Chelmsford and Mr. Montagu were under discussion in 1918, the Chamber of Commerce expressed itself in opposition to them. For its members considered that they would force prematurely upon the people of India a system of government for which the people, as a whole, had shown no aptitude, and expressed no desire. But, while taking this view, the Chamber nevertheless felt bound to examine the proposals, and to criticise them in principle, and to some extent in detail. The Chamber also came to the conclusion that the European commercial community ought, both in the general interest of the country and in its own interest, to be adequately represented in the new legislatures. And when the new scheme of government was actually brought into operation the Chamber, although by no means convinced of its wisdom, unhesitatingly endeavoured to do everything possible to contribute to its success.

4. At this point it may be useful to state what the constitutional changes were. Leaving aside the Council of Princes, the two great changes which were introduced into the constitution by the revised Government of India Act were:—(*a*) the establishment of a bicameral legislature for the central Government, and (*b*) the establishment of a dual

government or dyarchy in the provinces. The two Chambers of the central legislature are the Legislative Assembly of 144 members, of whom 104 are elected ; and the Council of State with 60 members, of whom 34 are elected. These two Chambers form the new legislature which was attached to the Viceroy's Executive Council in the place of the Legislative Council constituted in 1909. This new legislature was given large powers over the Budget, and in other directions ; but the Executive Council was not made responsible to it. In the provinces a step farther in the direction of responsible government was taken. The administrative work of each province was divided into two fields. In other words the various departments were classified as "reserved" and "transferred". The "reserved" departments were made subject to the control of the Governor's Executive Council ; and the "transferred" were placed in the hands of Indian Ministers chosen by the Governor from the elected members of the provincial legislature. The Ministers were made answerable to the legislature for the manner in which they administer their departments.

5. Such is in the briefest outline the system of government, the working of which is now under investigation. As viewed by the European commercial community it is not an ideal constitution. On the contrary it has serious defects. To mention one of these only it is indisputable that the provision made for the representation of European commercial interests in the Legislative Assembly is most inadequate. But defects of this class, serious though they are, do not suggest that the new scheme of government is hopelessly unworkable. The first Legislative Assembly, notwithstanding occasional lapses, gave promise of success. The Council of State, was, and is, a responsible chamber commanding respect. And the Committee certainly regarded the Bengal Council, prior to the recent elections, as a legislative body which endeavoured to serve the province. But both in the Legislative Assembly and in the Bengal Council—and it is understood in some of the other provincial councils also—racial antagonism is now conspicuously displayed on every possible occasion. Obstruction is consistently practised, and the wrecking of the Councils, and the destruction of the dyarchy are openly proclaimed as the objects aimed at. No system of government, however well constructed, can be fairly judged when it has to be carried on under conditions such as these. It does not therefore necessarily follow that the Reforms Scheme is inherently defective because, in these circumstances, it has more or less broken down in two provinces, and because the Governor General has been forced by the Legislative Assembly to exercise his powers of certification in order that the ordinary every-day business of the State may not be brought to a standstill.

6. On the contrary the conclusion at which the Committee have arrived, after frequent consultations with their representatives in the Councils, is that the existing constitution might be made, by the exercise of loyal co-operation and goodwill on the part of the members of the legislatures, into a tolerably efficient scheme of government. They are consequently of the opinion that it would be a grave mistake to introduce any radical or important changes now. They do not know of course that such are in contemplation, but presumably modifications of some sort are to be considered. A period of three or four years is a ridiculously short time in which to judge of the merits of any new constitution. Furthermore, the Government of India Act provides for the appointment of a Statutory Commission, after the first ten years of the existence of the

Councils. And the Chamber of Commerce feels bound to protest emphatically against the introduction of changes of consequence during this decennial period. The present political situation shows how a well established and efficient scheme of administration may be disorganised by what the Chamber regards as unwise changes. The Joint Select Committee on the Government of India Bill realised the danger, for they expressed the opinion "that the Statutory Commission should not be appointed until the expiration of ten years, and that no changes of substance in the constitution, whether in the franchise or in the lists of reserved and transferred subjects or otherwise should be made in the interval."

7. This opinion is confirmed by the events of the past three years. As Lord Chelmsford and Mr. Montagu pointed out, complete responsible government depends upon the existence of an electorate sufficiently active and cognisant of affairs to hold their representatives effectively to account. It would be idle to suggest that the existing electorate is either active or cognisant of affairs. On the contrary the irresponsibility of so many of the elected members is undoubtedly traceable to the fact that their constituencies are not sufficiently alive to call them to account. That the number of persons qualified to vote is extraordinarily small in proportion to the population is of course well-known. But, although at the recent elections in Bengal a larger number of votes was polled than in 1921, the percentage was only 39 per cent. of a total electorate of only 10,44,166. The population of the province is 47½ millions.

8. These figures are more or less representative of the other provinces also. They suggest, what is indeed an admitted fact, that there is ample scope for the development of capacity and responsibility in the electorate. Not only so, but there is at the present time an enormously wide field of usefulness and activity open to Indian politicians in the transferred departments of the provincial Governments. It would be absurd to contend that in a province, such as Bengal for instance, the transferred subjects do not afford a great opportunity for the exercise of statesmanship and administrative skill and ability on the part not only of the Ministers but of members of the Council also. Local self-government, public health and sanitation, medical administration, education, public works, agriculture, to name some of the larger of the transferred subjects, are surely of sufficient complexity and importance to tax the capabilities of the most ambitious politician. But there is a disinclination to deal with the problems which are thus lying at hand awaiting solution; and there is a strong feeling in favour of an immediate further extension of the principle of responsible government.

9. To the Committee of the Chamber it would seem to be imperative, in the interests of the people themselves, that this demand should be resisted for the time being. In expressing this opinion they are not suggesting that there is no scope for an immediate enquiry. They quite recognise that there may be points of detail which can be enquired into now with advantage, and in connection with which changes may be made which will improve the working of the scheme. But they are convinced that it would be in the highest degree unwise to make changes of substance in the constitution until the Statutory Commission to be appointed under the Act has concluded its investigation. The Reforms scheme is a great experiment, and it must be given sufficient time to enable its results to

be thoroughly judged. Its authors recommended that its working should be reviewed for the first time after an interval of ten years. Practical experience of the scheme certainly does not lead to the conclusion that any further advance in the direction of responsible government can be safely made within a shorter period. And thereafter the advance, if any, should be proportionate to the success attained, or, to quote the preamble to the Government of India Act, it should be determined " by the co-operation received from those on whom new opportunities of service will be conferred, and by the extent to which it is found that confidence can be reposed in their sense of responsibility."

Memorandum by Mr. Hem Chandra Das Gupta, Honorary Secretary, All-Bengal Government College Teachers' Association, Presidency College, Calcutta.

LETTER FROM HEM CHANDRA DAS GUPTA, HON. SECRETARY, ALL-BENGAL GOVERNMENT COLLEGE TEACHERS' ASSOCIATION, PRESIDENCY COLLEGE, CALCUTTA, TO THE SECRETARY, GOVERNMENT OF INDIA ACT COMMITTEE, DATED 7TH AUGUST 1924.

I have the honour to submit herewith, on behalf of the Executive Committee of the All-Bengal Government College Teachers' Association, a memorandum to the Committee appointed by the Government of India to enquire into the difficulties arising from, or defects inherent in, the working of the Government of India Act and the Rules thereunder. The memorandum deals with the rules, etc., so far as they affect the members of my Association only and my Committee hopes that it will receive due consideration in the hands of the Government of India Act Committee.

I am further authorised to inform you that, if required by your Committee, my Committee will be very glad to send one or more representatives to give oral evidence.

MEMORANDUM.

The Executive Committee of the All-Bengal Government College Teachers. Association fully endorses the view of the Lee Commission when it says that "wherever democratic institutions exist, experience has shown that, to secure an efficient Civil Service, it is essential to protect it, so far as possible, from political or personal influences, and to give it that position of stability and security which is vital to its successful working as the impartial and efficient instrument by which Governments, of whatever political complexion, may give effect to their policies."

It appears that this principle was recognised by the framers of the Government of India Act when they suggested the appointment of a Public Service Commission to go into the question of Civil Service conditions thoroughly. But, for some reason or other, this wise suggestion has not yet been acted upon.

The Lee Commission realised that further delay in giving effect to this suggestion would only aggravate the feelings of anxiety and discontent in the services. It, therefore, laid great stress on the point and recommended that "the statutory Public Service Commission, contemplated by the Government of India Act, should be established" and a Public Services Act passed, "without delay." It regarded this recommendation as "one of the cardinal features" of its report and as "forming an integral and essential part of the whole structure" of its proposals for the future of the services.

It was hoped by the framers of the Government of India Act that the inception of the new policy would eliminate the primary cause of unrest in India; but, as the Lee Commission rightly observes, "the development of events belied this hope. The relations between the political classes and the services were markedly worsened. In the minds of the services the uncertainty

of the political future of India, combined with attacks upon them in the press and on the platform.....produced feelings of anxiety and discontent." The average civil officer undoubtedly feels, to quote the words of Mr. David Petrie in his minute appended to the Lee Commission Reports, "that he has been too much a pawn in the political game, that his grievances are not sympathetically considered, that his rights are not adequately safeguarded, that his work is often unfairly attacked, and that his official superiors are too backward in championing him against his traducers. He sees grants of money that are necessary for the proper carrying on of his work refused by the legislature for reasons that are totally unconnected with the public interest, and he feels that efficiency is no longer aimed at or cared for. He listens to an unceasing and unrestrained vilification of the British Government and, as one of its agents, he cannot but feel that some of these shafts are aimed at himself as well."

This feeling of uncertainty has been deepened by the presence of a party in the council whose sole object is to wreck the constitution heedless of consequences and to refuse items in the budget without any reference to the merits of the case. The recent happenings in the Central Provinces and Bengal have created, in the minds of the officers in the Transferred Departments at least, a feeling nothing short of a panic. They feel that something must be done for their protection and that immediately.

The Executive Committee of the All-Bengal Government College Teachers' Association, therefore, makes the following suggestions:—

(1) A Public Service Commission should be established and a Public Services Act passed without delay, on the lines recommended by the Lee Commission, to protect the interests of all services.

(2) Whenever the local legislature contemplates any change in the pay and prospects of the Transferred Services, reference should, in the first instance, be made to the Public Services Commission; and before coming to any final decision on the matter, the council should carefully consider the recommendations of the Commission.

(3) So long as the policy of obstruction on the part of a section of the Council succeeds in paralysing the administrative machinery of the Government, it is necessary to arm the Governor with adequate powers of certification, and accordingly the power of the Governor should be increased so as to enable him to restore by certification such items of the budget (dealing with the pay and prospects of the Transferred Services) as may have been rejected by the council, not on the intrinsic merits of the case, but from extraneous political considerations.

(4) The Executive Committee of the Association begs further to draw attention to the anomalous condition of the officers of the All-India Services appointed "with the approval of" the Secretary of State. The Committee is strongly of opinion that the wholesome recommendation made by the Lee Commission in this connection (*vide* para. 89, page 51 of the Report) should be immediately given effect to.

Memorandum of the Indian Association, Calcutta.

Dated Calcutta, the 13th August 1924.

From—The Secretary, Indian Association, 62, Bowbazar Street, Calcutta.

To—The Secretary, Reforms Enquiry Committee, Simla.

I am directed by the Executive Committee of the Indian Association to submit to the Reforms Enquiry Committee the accompanying memorandum embodying their views on the subject of the Committee's enquiry. I am further to add that Mr. Kshitischandra Niogi, M.A., B.L., M.L.A., 84-1 Amherst Street, Calcutta, will, if considered necessary by the Committee, give oral evidence on behalf of the Indian Association.

MEMORANDUM.

Provincial Governments.—The Indian Association are of the opinion that Dyarchy is unworkable and has failed and that it must be ended. The position of the Ministers is anomalous; in their own departments—the transferred departments—they are greatly hampered by the want of funds and by the interference of the Finance Department as well as the permanent officers, particularly the Secretary, who has the right of approaching the Governor when he differs from the Minister. This is opposed to the very principle of the responsibility of the Minister to the Legislature. In any action taken, the Minister has to defend himself before the Legislature and the country, but the action may not be his own. Moreover, he is to a great extent subordinate to the Secretary of State also, in the matter of his relations with the services under him, which renders his responsibility to the Legislature meaningless and unsubstantial. As regards the Reserved Departments, the Minister has no hand in the shaping of their policy as he is generally not consulted, and joint deliberations are few and unimportant. The consequence is that when the people take exception to any action of the Reserved Departments, they hold the Ministers responsible and blame them for permitting such action without protest or resignation. The Ministers are also generally found to vote with the Government on such occasions, and against the popular view point, which produces a suspicion in the mind of the public that they are as responsible for the policy of the Reserved Departments as the Members of the Executive Council, and are in no way responsible to the people or the Legislature. Thus the position of the Ministers is very insecure and generally misunderstood by the people.

The Association, therefore, urge that Dyarchy should cease and that complete autonomy should be granted to the Provinces. The Association are further of the opinion, that communal electorates should be abolished and in their place reserved seats should be provided in the general electorates for such communities as now enjoy special representation. This in the opinion of the Association will promote good feeling between the different communities and eliminate the animosity and friction which have been engendered of late. This, moreover, will provide the basis for the organisation of the Party system in the legislature on other than communal lines.

Central Government.—The Indian Association consider that responsibility should be introduced into the Central Government also. But in view of the fact that Dyarchy has failed in the provinces, they are opposed to the introduction of Dyarchy in any form in the Government of India. The Association suggest that the Government of India should be run by a unified Cabinet or Executive Council, two-thirds of the Members of which should be non-official Indians of the Indian Legislature and one-third officials, all appointed by H. E. the Governor-General. The Cabinet should be removable by a vote of censure passed by the Assembly by a majority of 60 per cent. Any official member of the cabinet, so removed, should revert to his former position in the permanent services, and a non-official member, so censured, should cease to be a member of the Government. H. E. the Commander-in-Chief should cease to be a member of the Cabinet, and the member in charge of the Military department should be a civilian member of the cabinet. H. E. the Commander-in-Chief should remain the head of the Army without a seat in the Cabinet or Legislature and he should not be allowed to take part in politics. A Committee, consisting of at least two-thirds Indians, should be appointed with power to take expert evidence and after enquiry it should fix a sum not exceeding 50 crores as the annual Army expenditure. If any amount is wanted above this sum in any one year, vote of the Assembly will be necessary. The power of certification possessed by H. E. the Viceroy regarding Budget items disallowed by the assembly should be abolished and in its place, there should be provision for the automatic restoration of the recurring expenditure of the previous year's Budget. H. E. the Viceroy should also forego the power of certification of legislation or taxation bills, but should retain the power of making Ordinances. So far as the Political Department is concerned the Assembly should have the full power of controlling the rights of British Indian subjects in Native States.

Memorandum of the Bengal Central Rayet Association Calcutta.

Letter dated Calcutta, the 13th August 1924.

From—The Honorary Secretary, the Bengal Central Rayet Association,

To—The President, The Reforms Enquiry Committee, Simla

I have the honour to forward herewith a memorandum specifying the opinions of the committee of the Bengal Central Rayet Association which represents over 38 Branches all over Bengal and is the best authority to speak on first hand information about the real feelings and needs of the rural population, which enjoy franchise by the reforms.

The committee strongly urges that the president of the Association, Mr. Syed Erfan Ali, Barrister-at-Law, should be invited to develop the items of the memorandum by oral evidence before the committee.

MEMORANDUM.

The Committee of the "Bengal Central Rayet Association" is of opinion that the electorate is illiterate and owing to lack of education or democratic traditions they have not the power to weigh properly the *pros* and *cons* of any political subject; the result is that the real issues are always lost sight of. This can be better appreciated if concrete instances are taken into consideration. In the last election to the Bengal Legislative Council the Rayets' or Tenants' cause was made the pivot of the election propaganda of every party. But after those who had posed as the champions of the Rayets' cause had been returned, they unscrupulously cold-shouldered the Rayets (who represented almost the whole of the rural electorate) and conveniently forgot to fulfil the promises they had made to their electors. The present compositions of the legislatures has also suffered from the backwardness of the existing electorates. The rural problems, affecting the majority of the electorates are always neglected. Most of the candidates or those who were ultimately elected are neither Landholders nor Rayets. They have no connection whatever with the land but are mostly town folks or their satellites. Thus there is no real representation of the people who form the bulk of the population. Steps should therefore be taken to educate the electorate, for it is only by educating them that we can prevent unrepresentative "representatives" of the people from flooding the Councils. Unless and until the present system of election is made workable and given a fair trial the extension of franchise is not only unnecessary but dangerous to the interests of those who form the real backbone of the country.

The committee has no hesitation in saying that in the last election to the legislature in 1923, popular ministers and those who stood for or co-operated with them or supported Dyarchy, were systematically victimised by the Swarajists.

The Committee does not desire to abolish Dyarchy at this stage. In the opinion of the committee Dyarchy has not been given a fair trial. The spirit of the India Act and the good intentions for the grant of the Reforms have been greatly hampered by the want of the ministers' control over the purse. The committee stands for an effective trial of Dyarchy by granting power over the purse for carrying on the needs o their departments to the responsible ministers.

Ministers, who were entrusted with nation-building departments such as education, sanitation, etc., could not work out their plans on account of want of funds. This great dearth of funds starved out the nation-building departments and the ministers, who were thus saddled with difficult problems, were debarred by want of control of the purse to show their merit. They were thus very much exposed to attacks as useless persons, that could not carry on their duties properly. This coupled with the hatred of the government preached by the intelligensia, were responsible for the overthrow of the ministers. The ministers should have every power to see that their schemes are not dropped for want of funds. There should be division of purse between the "transferred" and "reserved" departments, respective to the needs of both departments of the Government. This division of purse should be equitable and not dependent on the sweet will of the Governor or the reserved side of the Government. The ministers should have complete authority in appropriating their share of the divided fund among different items unfettered by the reserved side of the Government. The ministers should have also power on their express authority to raise loan to carry any scheme into effect on the security of revenue. In order to give effect to this proposal the local Government (Borrowing) Rules should be modified and the sources of income and items of expenditure may be earmarked for the transferred department. By these means the ministers would be capable to take adequate steps to prevent the ravages of malaria, which counts its victims by thousand and threatens to render the nation extinct. The ravages of diseases like cholera, malaria and kalazar have already stirred the people to a considerable extent and villages have been rendered desolate from their effect. The agitators have found in such a discontented state a combustible likely to ignite at the slightest instigation. These ministers were held up to the public gaze as persons responsible for these state of affairs and it was no wonder that they were unseated by the electorate. This control is also necessary for combating the gross illiteracy of the masses. Though some schemes were made for free primary education, they could not be pushed on account of dearth of funds which could be rendered less acute if the ministers could manage their own finance and they had an equitable share of the funds of the Government.

The committee also strongly condemns the management of finances whereby the deficits are left to the ministers whereas in case of surplus the reserved side at once absorbs that. Sections 30, 31 and 32 of the Devolution Rules should be modified to give effect to these suggestions. The ministers should be considered to be best judge of their own requirements and they should have free hand in regard to finances than it had hitherto been given to them by the absolute discretion of the Governor, who is more eager to help the reserved side.

The committee also desires to put forward that it would be preferable for the members of the executive council and the ministers to sit in joint meeting as the ministers being more in touch with the public opinion their advice would be more in keeping with current public opinion. Ministers should also be capable of voting such joint meetings and submitting a separate note in case of difference of opinion.

There should be some degree of responsibility in the central Government and the India Government should be more amenable to the decisions of the Legislative Assembly. There should be some restriction in the Governor General's power of veto.

Memorandum of certain Hindus of Bengal and Assam.

To

THE PRESIDENT AND MEMBERS OF THE

REFORMS ENQUIRY COMMITTEE,

SIMLA.

The humble representation of the undersigned Hindus of Bengal and Assam.

RESPECTFULLY SHEWETH,

We the signatories to this representation who are Hindu citizens of Bengal possessing a more or less representative character in the orthodox sections of the Community, contemplate with grave concern the unauthorised attempts which have been made from time to time in the Legislative Assembly to interfere by means of legislation with the social and religious practices of the Community. We note also that of late these attempts at legislative interference with social rules have been shewing a tendency to become more and more irresponsible in character. We beg leave therefore to place the following points before the Hon'ble the President and members of the Committee for consideration.

It may be stated that during the last session of the Assembly several bills proposing to alter the Hindu Law of Inheritance and marriage were introduced without there being any demand for such legislation from the Communities concerned, merely on the personal impulse of certain members. Although the unsatisfactory character of the present method of initiating social legislation by private members has been apparent to all who have watched the proceedings of the Legislature with some care, Government have evinced so far a degree of indifference in the matter which remains unaccountable, except on the supposition that they were either in sympathy with these measures of legislation or that the sense of their duty of protecting the interests of those whose communal life is being jeopardised through this process of legislation, is outweighed in their judgment, by their reluctance to face any criticism to which they might be exposed by reason of subjecting a public bill introduced by a private member of the Assembly to a discriminative examination which might result in the Government's refusal to sanction its introduction under section 67, clause (2) of the Act. It does not seem to be possible to deny that the introductory stage of a measure of legislation in the legislature of a country marks an important stage in its career, and, in this respect, it is noticeable that the rules of the Indian Legislature differ from those of the House of Commons, to the detriment of the Indian Communities. Wherever such a bill is allowed to be introduced in the absence of a sufficient reason and without any outstanding demand from the Community concerned, it entails not only an amount of unnecessary expenditure of public time and money, but also a waste of its time and energy by compelling it to formulate and organise resistance, at the same time causing it anxiety and barassment.

As a recent instance in point we crave leave to refer to the Bill regarding the age of consent introduced by Dr. Gour during the present Session, after a similar Bill introduced by Bakshi Sohan Lal, had been thrown out by the Assembly in 1923, without there being any fresh developments in the country regarding the matter, within the few months which elapsed between the rejection of the one and the introduction of the other; and in the absence of any general demand in the country for any such measure of legislation. In this connection we may be permitted to invite the attention of the Hon'ble Members to the practice obtaining in the House of Commons with regard to the treatment of public bills when attempted to be introduced by private members. "In passing public bills Parliament acts strictly in its legislative capacity. It originates the measures which appear for the public good; it conducts enquiries when necessary for its own information and enacts laws according to its own wisdom and judgment. The forms in which its deliberations are conducted are established for public convenience; and all its proceedings are independent of individual parties who may petition indeed, and are sometimes heard by Counsel, but who have no direct participation in the conduct of business or immediate influence in the judgment of Parliament." (Mays's Parliamentary Practice, Ed. 1917, p. 608). In the Indian Legislature a public bill introduced by a private member becomes practically his private property, or the property of his party, if there is any. In this state of things the question of the introduction of a bill affecting the religious rites or the social practices of a community, in the Indian Legislature by a private member, assumes supreme importance, specially in view of the present transitional stage of Indian society in which a small section of the vocal classes are beginning to evolve new fangled ideas of life and thought, as well as of social organisation, and have in many respects, completely detached themselves from the thoughts, sentiments and aspirations of the people for whom they pose as representatives, and who often mistake mere change for progress, even though such change may be for the worse. Even the Hindu Law of Inheritance has been attempted to be changed in the last Assembly in a hasty and scrappy manner, without regard to the guiding principles of Hindu Law, with the possible result that in the near future, another bill covering the points attempted to be legislated upon by previous bills may be introduced by a member of the Legislature, holding different views on the subject, and proposing a change in the law on the point thereby unsettling at the next opportunity, what may have been settled by the previous measures, and in this manner exposing Hindu Law to the uncertainties of party politics, and introducing confusion or making confusion where it exists, worse confounded. The Community to which we have the honour to belong are unable to contemplate with equanimity these possibilities which perhaps will emerge into being if the Government do not see their way to withhold sanction to the indiscriminate introduction of measures of legislation affecting their religious and social rites and practices, as done in the case of the bills which were introduced in the last legislative session of the Assembly, with a view to alter the Hindu Law of Inheritance by legislation determined after a very insufficient treatment of the matter. These seem to afford recent examples of the dangers which we see ahead. We beg leave to invite attention to a brochure* written by a member of the last Assembly which depicts, we venture to think with some

* Appendix.

success, the scanty consideration which the two bills therein referred to received in and out of the Assembly before they were passed in that Legislature. We crave leave to submit (twelve) copies of the said brochure along with this representation in order that the points raised, or the remedies suggested, therein may be considered by the Hon'ble the President and the members of the Committee.

It will be seen that the framing of appropriate rules or standing orders under the Government of India Act or, if need be, formulating an alteration of the Act itself has become indispensably necessary for His Excellency the Governor General and the Government of India, in order that the principles of action for granting or withholding sanction under section 67, clause (2) of the Government of India Act may be laid down. We pray that in framing such rules or standing orders or introducing necessary changes in the Act itself the Hon'ble Members of the Committee may be pleased to keep in view, *inter alia*, the fact that no bill affecting the religious rites and usages of any class of British subjects in India or repealing or amending any Act or Ordinance made by the Governor-General within the meaning of section 67, clause (2) of the Act, should be allowed to be introduced in the Legislature by a private member unless and until Government are thoroughly satisfied as to the existence of a general outstanding demand for such legislation from the Community concerned after making due and sufficient enquiry into the matter and after placing what may be described as the Common Law of the country outside the codified law, as contained in the Smritis and Dharmashastras, in the same category as the Acts and Ordinances of the Governor-General within the meaning of clause (*d*)(*iii*) of section 67 of the Act. It is also prayed that necessary rules and standing orders may be framed and, if need be, appropriate changes in the Act itself may be recommended for the formation of Committees in the Assembly as in the House of Commons with a view to make such bills as may be allowed to be introduced by private members, as full, appropriate and complete as possible wherever the necessity for legislation may unquestionably exist in respect of the matter covered by such a bill, and in such cases we venture to hope that the Government will, wherever necessary, itself introduce a bill in a perfected and exhaustive form, in place of the one proposed to be introduced by a private member. We venture to point out that the necessity for the precautions we suggest with respect to social legislation seems to us to be far greater in this country where the Government is not in the hands of the Community affected by such legislation, and where the Legislature is composed of groups entertaining fundamentally incompatible ideas of life and social organisation, than in the case of the British House of Commons. We are afraid that if the present state of things continues unchecked, legislation carried out by unrepresentative members in the Legislature affecting the religion and religious rites and usages as also the social customs of any particular Community will reduce social legislation to a mere game of chance in the near future, and will tend to stabilize a strange tyranny of the minority in such matters.

And your humble petitioners, as in duty bound, shall ever pray.

GOPAL CH. MOOKERJEE, *Landholder.*

SACHINDRA CHANDRA SETT, *Landholder.*

SURENDRANATH BASU, *Vakil, High Court. Calcutta.*

SIKHAR KUMAR BASU, *Vakil, High Court.*

NANDA GOPAL BANERJEE, *Vakil, High Court.*

SATYA CHARAN SINHA, *Vakil, High Court.*

ASITARANJAN CHATTAPADHAY, *Vakil, High Court.*

AVINAS CHANDRA GUHA, *Vakil, High Court.*

AMULYA CHANDRA CHATTERJI, *Vakil, High Court, Calcutta.*

NAKULESWAR MUKHERJEE, *Vakil, High Court.*

JUGORT CHANDRA BOSE, *Vakil, High Court.*

RABINDRA CHANDRA SETT, *Landholder.*

HEMENDRA CHANDRA SEN, *Vakil, High Court.*

PARES NATH MUKHERJEE, *Vakil, High Court, Calcutta.*

ABINAS CHANDRA MAJUMDAR, *Bengali Translator to Government.*

HARAPRASAD CHATTERJEE, *Vakil, High Court, Calcutta.*

NANILANE DEEP, *Vakil, High Court, Calcutta.*

SUSIL CHANDRA MUKHERJEE, *Merchant.*

SHYAMAL CH. MUKERJEE, *Landholder.*

JOGENDRANATH MUKHERJI, *Vakil, High Court, Calcutta and Member, last Legislative Assembly.*

P. C. MUKHERJEE, *Jute Broker.*

JYOTIPROSAD SARVADHIKARI, *Vakil, High Court.*

HAMENDRA NATH SEN, *Vakil, High Court, Calcutta.*

MANAMOHAN BHATTACHARJEA, M.A.

INDU BHUSAN SEN, *Director, The Bijni Dooars Tea Co., Ld.*

SASTRI HARI CHARAN GANGULI, *Vakil, High Court, Calcutta.*

MOHINI MOHAN CHAKRAVARTI, *Vakil, High Court, Calcutta.*

GOPAL CHANDRA DAS, *Vakil, High Court, Calcutta.*

LATU BIHARI BOSE, *Retired Sub-Judge, Bengal, and Vakil, High Court.*

MONOMOHAN BANERJEE, *Vakil, High Court.*

HARI CHARAN BANERJEE, *Vakil, High Court.*

PRAMATHA NATH MITRA, *Vakil, High Court, Calcutta.*

SURISH CHANDRA MUKERJI, *Pleader, Alipore, 24-Parganas.*

BIPIN BIHARI BISWAS, *Vakil, High Court.*

SUDHERDA MOHAN BHATTACHARJEE, M.A., B.L., *Pleader, Small Cause Court, Calcutta.*

SARADARANJAN RAY, M.A., VIDYAVINODE, SIDDHANTA-VACHASPATI, *Principal, Vidyasagar College.*

A practically verbatim copy of this memorandum was also received dated Gauhati, the 3rd September 1924 and signed by 21 persons.

APPENDIX.

THE LEGISLATIVE ASSEMBLY AND ITS WORK.

(WITH SPECIAL REFERENCE TO SOCIAL LEGISLATION.)

The first period of the Legislative Assembly under the new Government of India Act of 1919, is now drawing to a close. A review of certain aspects of its operation and activities at this period of its existence will, perhaps, prove interesting to those who may be inclined to note their bearing on the social and political life of the country.

For the first time in the political life of British India democratic principles of Government, though of a rudimentary type and tentative character, have been introduced by the new Government of India Act. The democratic spirit has been allowed, however, some free play in certain aspects only of the functions of Government, but not in others. In this latter class of cases, the reins of bureaucratic rule have been held rather tight by the executive Government both in India as well as in England.

Let us begin with an examination of the scheme with regard to the powers of introducing legislation with which members of the Assembly and of the Council of State have been vested, and the practical working of those powers. In this respect the new Act has not made any provision for classifying bills into public and private, as in England, but has allowed bills of any kind whatsoever, and not merely those known in England "as private bills," to be introduced by non-official members of the Legislature. These powers clearly enable any non-official member to introduce any bill in which he may be personally interested either from the point of view of personal gain or the promulgation of a particular theory of life or social organisation which he may himself entertain, though unsupported by any outstanding demand for legislation in that respect on the part of the people or classes of people who are likely to be affected by it. There is, therefore, practically no limit to the initiation of legislation by non-official members of the legislature save what is provided by section 67 of the Government of India Act, clause (2) of which prescribes, among other matters, that it shall not be lawful without the previous sanction of the Governor-General, to introduce at any meeting of either chamber of the Indian Legislature, any measure affecting:—

(*a*) the public debt or public revenues of India, or imposing any charge on the revenues of India; or

(*b*) the religion or religious rites and usages of any class of British subjects in India; or

(*c*) the discipline or maintenance of any part of His Majesty's Military, Naval or Air Forces; or

(*d*) the relations of the Government with foreign princes or states; or any measure:—

(i) regulating any provincial subject or any part of a provincial subject, which has not been declared by the rules under the Act to be subject to legislation by the Indian Legislature; or

(*ii*) repealing or amending any Act of a local legislature ; or

(*iii*) repealing or amending any Act or Ordinance made by the Governor-General.

To these may be added restrictions which section 65 of the Act imposes on its powers to make laws for the persons or classes of persons and the matters therein specified.

It will thus appear that the introduction of bills by non-official members within permissible limits, where unduly attempted, can be checked only by the Governor-General acting upon his own personal initiative and at his discretion, withholding sanction only where he may personally think it proper to do so. But is there anything either in the Act itself or in the rules and standing orders made under it regulating the exercise of the Governor-General's discretion? The answer must be in the negative.

This question of initiation of bills in the Indian Legislature has an importance which, it is to be regretted, is imperfectly understood. While the people may at first sight rejoice in the conferment of powers in this connection upon the members of the legislature, yet the practical working of these powers reveals the existence of a double-edged sword which when unnecessarily or improperly wielded results in great harm to the people themselves. The question, therefore, at once presents itself whether bills intended to be introduced in the Legislature should not be classified, as in England, as public and private bills, whether the origination of public bills should not rest with the Government alone and should not be subjected to the same process of treatment as they have to undergo in England, and whether non-official members should be permitted to treat them, as they do now, as their own private property and allowed to manipulate them during their passage through the Legislature, by nominating members of select committees in respect of them just as they like, by influencing the votes of members by means not apparent to the public nor warranted by the intrinsic merits of the bills themselves, as well as, in various other ways. As matters stand now, the previous sanction of the Governor General under sec. 67, clause (2) has been left practically without any guidance or control by rules having the force of law, so far as bills that are introduced by non-official members are concerned, but which in England would be classed as public bills, and would be treated as such in the Mother of Parliaments. In England, the object of a public bill has been stated to be to alter the general law ; the object of a private bill is to alter the law relating to some particular locality or to confer rights on, or to relieve from liability some particular person or body of persons. [*Vide* Manual of Procedure in the Public Business (House of Commons), Edition 1919, page 139.] "The proceedings in Parliament in passing private bills are marked by much peculiarity." 'A bill for the particular benefit of certain persons may be injurious to others ; and to discriminate between the conflicting interests of different parties involves the exercise of judicial inquiry and determination. This circumstance causes important distinctions in the mode of passing public and private bills and in the principles by which Parliament is guided."

'In passing public bills, Parliament acts strictly in its legislative capacity ; it originates the measures which appear for the public good, it conducts enquiries, when necessary, for its own information, and enacts laws according to

its own wisdom and judgment. The forms in which its deliberations are conducted are established for public convenience; and all its proceedings are independent of individual parties, who may petition, indeed, and are sometimes heard by counsel, but who have no direct participation in the conduct of the business, or immediate influence upon the judgment of Parliament. (May's Parliamentary Practice—Edition 1917, page 608.)'

"'In passing private bills, Parliament still exercises its legislative functions, but its proceedings partake also of a judicial character. The persons whose private interests are to be promoted appear as suitors for the bill; while those who apprehend injury are admitted as adverse parties in the suit. Many of the formalities of a Court of Justice are maintained; various conditions are required to be observed and their observance to be strictly proved. If the promoter of a private bill does not strictly observe the formalities laid down by the rules, or if he abandons it, and no other party undertakes its support it is lost, however sensible the House may be of its value. The analogy which all these circumstances bear to the proceedings of a Court of Justice, is further supported by the payment of fees which is required of every party promoting or opposing a private bill, or petitioning for or opposing any particular provision. This union of judicial and legislative functions is not confined to the forms of procedure, but is an important principle in the enquiries and decision of Parliament, upon the merits of private bills..... In order to increase the vigilance of Parliament, in protecting the public interests, the Chairman of Committees in the House of Lords, and the Chairman of Ways and Means in the House of Commons, are entrusted with the peculiar care of unopposed bills, and with a general revision of all other private bills; while the agency of the Government departments is also applied in aid of the legislature." (*Ibid* p. 609-10.) "Private bills have often been objected to, and have been debarred in the House o Commons from proceeding, on the ground that from their scope and objects, or from the principles involved in them, they should have been introduced as public bills."

In the Indian Legislature, the attitude which the Central Government have taken up so far, in respect of all non-official bills, is inexplicable. It does not stop to consider whether there is any momentum of public opinion behind any such bill to justify its initiation. Even if any such bill be of the character which would bring it under the class which, in England, is deemed as that of public bills, its origination is left in the hands of the non-official member concerned, and the executive Government simply decide what attitude they should adopt with respect to it, that is to say, whether they should support or oppose it, or remain neutral in the matter. A cursory examination of the situation, however, will shew that such a position is absolutely untenable.

Leaving out questions which are of narrow communal interest, there is no reason why legislation relating to matters affecting the public generally should be allowed to be originated by a non-official member. According to the practice in the House of Commons, a non-official member, as stated already, would be debarred from initiating such a bill. Even if the Government find such a non-official bill to be unobjectionable, it is not enough that they should regard the measure merely with a critical eye. Their obvious duty in all

cases would be to make enquiries and collect materials independently of its non-official sponsor, so as to make legislation on the subject as comprehensive, complete and useful as possible. Such a result can be expected to be achieved only by adopting the procedure followed in the House of Commons, and not by leaving the formulation of a bill and its conduct through the Indian Legislature in the hands of a non-official member. It may be otherwise, however, in the case of trivial matters of legislation which do not involve any large question of principle.

The origination of bills by a non-official member in the Indian Legislature assumes, however, supreme importance when a non-official member introduces a bill affecting the personal laws and usages of any particular community in India. The country is in a transitional stage of its evolution, and a small section of the vocal classes are beginning to evolve new-fangled theories of life and social organisation; and, in many respects, they have completely detached themselves from the thoughts, sentiments and aspirations of the people for whom they pose as their representatives. Very often their hasty generalisations and opinions are based merely on a superficial consideration of the needs of the country both spiritual and temporal. They very often mistake mere change for progress, even though such change may be for the worse, and in this state of mind they try to give effect to their personal ideas through the machinery of the Indian Legislature. It seems to be practically certain that as soon as the masses of the people will begin to realise the situation, a great revulsion of feeling will spring into existence as against the Government and the machinery of the legislature through which the operations of the Government are brought home to the people at large. Government cannot delude themselves into the belief that by merely adopting what they mistakenly consider to be a neutral attitude in social legislation, they can succeed in securing fair-play and in allowing the communities concerned an opportunity of solving their own communal problems in their own way. The ideas of social and religious reform, very often immature and fragmentary in character, which are sometimes entertained by their agents, the official members in the legislature (who are, however, allowed to vote on such occasions) being given effect to through their votes, serve to help forward such social legislation against the ideas and opinions of the great masses of the people, instead of allowing the matter of such legislation to be left in the hands of those alone who are to be directly affected by it. In spite of foreign rule in the country, this freedom from interference by Government in the social and communal laws of the different communities of India, has proved itself, so far, practically the only vestige of "Swaraj" or self-determination which they have hitherto enjoyed. But this "Swaraj" is now going to be completely destroyed through the operations of the mixed Legislature and the present attitude of Government in respect of social legislation. A few concrete examples will, perhaps, clear up the matter.

Let us examine the proceedings of the Legislative Assembly relating to the two bills of Mr. Shesagiri Aiyar which he introduced in the present Assembly and got them passed—his bill to amend the Hindu Law of Inheritance in certain particulars, and his bill to amend the Hindu Law relating to exclusion from inheritance, leaving out other bills such as Dr. Gour's Civil Marriage Amendment) Bill, etc.

Mr. Aiyar's two bills were introduced during the September session of 1921. In introducing the latter bill of the two and in explaining the attitude of his mind with regard to the improvement of Hindu Law generally, he made the following points :—

(1) That it is necessary that some attempt should be made to carry on the work which was once done by Rishis and commentators and that direct changes should therefore be introduced in the Hindu system of jurisprudence according to his so-called modern ideas, and, to quote his own words—"Certain ideas which were no doubt perfectly legitimate in the days they were indulged in, have now become out of date, and it is necessary to revise them."

(2) That upon the same text of Hindu Law there have been different commentaries and that one part of India attaches more importance to a certain class of writers than other parts of India.

(3) That various Judges have given different interpretations to the same texts of Hindu Law.

(4) That a large number of customary precedents have grown up, and as a result, rules which obtain in one province differ from those which obtain in other provinces.

To put the matter plainly, he wants that there should be a radical change in the basic principles of Hindu Law, that the differences which exist in the application of Hindu Law in the different provinces should be obliterated as far as possible, and Hindu Law should be reduced to one common level of uniformity notwithstanding differences in manners and customs and ideas of life and social organisation as regards details among the different local Hindu populations of India. It is perfectly clear that Mr. Shesagiri Aiyar's two bills are meant to realise, in part at least, this novel, revolutionary, and, one might be almost tempted to say, mischievous theory.

His other bill,—the bill to amend the Hindu Law of inheritance, was introduced by him on the 26th of September, 1921, with just a few introductory remarks, declaring that it was unnecessary for him to go over the same ground as he did on the occasion of the introduction of his first-named bill. On this occasion, again, he characterised his bill as a very harmless mesure, whereas in reality he sought thereby to unsettle the whole Mitakshara law of succession as it obtains in the provinces of Madras and United Provinces, by providing that the estate of a Hindu governed by the Mitakshara law and not held in coparcenary, shall, notwithstanding anything in Hindu Law to the contrary, in the absence of heirs down to the brother's grand-son be inherited in the order—

(1) By son's daughter ;

(2) By daughter's daughter ;

(3) Sister ;

(4) Sister's son ;

(5) Step-sister;

(6) Step-sister's son;

(7) Step-mother;

and only on failure of the above, by the father's mother, or other heirs coming after her under the Mitakshara law of inheritance, provided that the female heirs succeeding as above shall take only such estate as a female heir would take under the ordinary Hindu Law; and that nothing in the bill shall affect any special family or local custom. In the parallel bill he provided that notwithstanding anything in Hindu Law or custom to the contrary, no person governed by the Hindu Law should be excluded from inheritance or from a share in joint-family property by reason only of any disease, deformity or mental defect.

Leaving out differences arising out of interpretations given to Shastric texts by the different High Courts of India and the Judicial Committee of the Privy Council, the law on this last mentioned point may be roughly stated to be, that eunuchs, persons born blind or deaf, madmen, idiots, the dumb and such as have lost the use of a limb, as also persons afflicted with certain incurable diseases, etc., should be excluded from inheritance. The position taken up in the bill was that no person coming under this category of the Hindu law should be excluded from inheritance, at all overriding, in this respect, the express provisions of the Hindu Law. It is not difficult to realise the gravity of the questions raised by these two bills.

Without discussing the merits of the questions raised by these measures of legislation at the present moment, it will be well to follow with some care and closeness the career of these two bills, in the hands of Government, and in the Legislative Assembly, as well as in the Select Committee which gave to them an amended form. When the bills were introduced in the Assembly we find the Governor-General had been pleased to accord to them already the sanction required by section 67, clause (2) (*b*) of the Government of India Act. What the reasons for granting the sanction are, the public have no means of discovering. Had Government tried to ascertain whether there was any outstanding demand for the bills expressed by public opinion? Had they tried to find out whether the orthodox classes of Hindus had expressed any desire for change in the principles which govern succession according to Hindu Law? Undoubtedly not, because it was only after the introduction of the bills that Government circulated them for eliciting opinion thereon from a very limited circle of office-bearers and law societies, but at no period of time did they attempt to know if there was present in the case that momentum of public opinion which alone, to say the least, should justify the introduction of legislative measures of a social character. Vague references were made by the propounder of the bills in his statement of objects and reasons and elsewhere as to the so-called public opinion; but the members of the Legislative Assembly never came to know whether the right sort of people whose sentiment in the matter ought to count, had been consulted, and not merely the opinion of men holding themselves, generally speaking, aloof from the current of orthodox feeling. India is a country where legislative ideas take a long time to filter

down to the bottom and to reach the masses, and the inference would be unwarrantable that the masses of the orthodox communities had the chance of either formulating or giving expressions to their feelings in these matters of social legislation simply because a few men and societies of men obsessed by "modern ideas" (as the propounder himself would put it) and moving in the upper stratum of society, and not moving with the common feelings and sentiments of the orthodox classes, had been consulted. To a question put in the Assembly as to what Hindu Associations, Religious heads of Institutions and representative Hindus of the orthodox Communities, as also other prominent persons and Associations outside the Hindu Community, had been consulted by Government with a view to obtaining opinion on the said bills, the reply of Government was that "No motion had been made in the Assembly for the circulation of these bills for opinions. In order, however, to enable Government to come to a conclusion as to the attitude to be adopted by them towards the bills, the Government of India circulated them inviting the opinions of Local Governments and Administrations, High Courts, Chief Courts, and Judicial Commissioners' Courts, the Bar Associations and such other authorities as the Local Governments thought fit to consult." These opinions were circulated to the members of the Assembly some time towards the end of February 1922, after the matter of their non-circulation had been brought to the notice of the Hon'ble the Home Member, in September of the previous year. What these opinions indicated will, however, be shewn later on in some measure.

In September 1922, the propounder of the bills moved that the bill altering the Hindu Law as to exclusion from inheritance be referred to a Select Committee consisting of members nominated by him. Although the mover on that occasion spoke in the language of hyperbole, as to the favourable opinion the public entertained with regard to it, the real state of affairs was disclosed by the impartial summing up of the situation by the Hon'ble the Home Member, in the following terms :—

> "The Bill had been circulated for opinion (by Government), and I must say that the opinions differ very greatly as to its merits. I should not like the House therefore to accept entirely what Mr. Sheshagiri Aiyar, who is naturally in favour of the bill which he has promoted, has said, as to the general trend of opinion on the subject. Members, I am quite sure, will not however, take either my statement or his but they will, if they have not already done so, examine the opinions for themselves.....

Rao Bahadur T. Rangachariar—"we have not got them."

The Hon'ble Sir William Vincent—(Home Member)—"If they have not got them, then certainly they ought to see them before the motion is accepted. I have just now noted down a few opinions against the bill—I do not want to cite all of them before the Assembly. One is from the Karachi Bar Association, the Committee of which body say that they are not in favour of the bill as it stands. Again, the Secretary of the Bengal Government writes to say that there is a strong difference of opinion on the bill among members of the Hindu Community, including the Hindu members and ministers of Government. I find that the Incorporated Law Society of Calcutta, which I imagine, is a body of some weight, is opposed to this bill, and I could go on citing other

opinions of equal weight to you. I do not suggest for one moment that the opinions are one-sided, for there are many opinions in favour of the bill; indeed the divergence of opinion is so great that it is extremely difficult for an outsider, to say which way the weight of opinion lies. Probably if you counted opinion as you count heads, the Hon'ble Member is right in saying that he has the support of the majority; but I am not sure that it is a sound way in weighing *legal opinion in a matter of this kind.* There is, however, one matter upon which the opinions of local governments are pretty unanimous, and that is that the government should not interfere in this matter, that it *is a matter which should really be left for Hindu opinion to decide and for the Hindu Members of the Assembly.*" These are very important words, indeed, to bear in mind.

Proceeding to deal with another aspect of the matter, the Hon'ble the Home Member observed: "This rigidity (of Hindu Law) is, however, also no doubt partly due to the very conservative character of Hindus, and in this particular matter, I understand, that the Courts have so mitigated the harshness of the rules as to avoid substantial injustice where they could. It is also pointed out that although persons afflicted with the diseases which are mentioned in the Bill, are deprived of their share of the inheritance, they are not under any system of law, deprived of maintenance, and it is suggested that this is all that is necessary." ..... again, "The argument has also been raised that persons who suffer from some permanent and incurable diseases, particularly mental diseases ought not to succeed to a full share of the property. In these circumstances, I want the Assembly clearly to understand what will be the effect of the acceptance of this motion. It means that they will *definitely accept the principle of the bill which makes an important change in the Hindu Law of Inheritance.* Whether it is right or not to interfere piece-meal with this great structure of Hindu Law is a *matter for Hindus to judge*, rather than for me. But it is a point that should be considered."

Thus it will be seen that so far as his bills are concerned, the mover had not made any motion before the House which he could have made officially, to elicit opinion on them from the Hindu public reflecting orthodox views. But it was left to the good sense of the Executive Government of the country to try and elicit opinion, though it was only from a very limited class of people; for following as they did the established forms of circulation, Government could succeed in obtaining in this matter the opinion of some high officials and Bar Associations only in the country. The mover himself no doubt protested in the Assembly that he had also privately circulated his bills for opinion; but as has been already stated, the members never came to know who the persons or the bodies were that had been consulted by him privately, and what were really their opinions. In this state of things the debate on the bills was adjourned and on the 15th February 1923, the propounder moved again that his two bills be referred to a Select Committee consisting of members named by him, and his motions were adopted. There was some discussion and opposition on this occasion also as regards the principle of the two bills, but the motions as already stated, were ultimately carried.

It will perhaps be interesting to know in some detail the general trend of the opinions which were obtained by Government from certain officials and official bodies, and which were brought to the notice of the members of the Assembly.

These may be roughly indicated under the following groups :—

(*a*) Opinions of persons who accepted the two bills upon a vague sense of modernity, without stopping to consider their effect upon Hindu notions of social polity and religious beliefs at all.

(*b*) Of those who being outside the Hindu Community, either entertain different views of social organisation or different religious beliefs, or having little or no belief in an after-life, refuse to admit any consideration based upon the previous or subsequent life of an individual and to treat such belief as an element in the determination of the question of succession.

(*c*) Of persons who gave their support to the bills either wholly or to a qualified extent upon secular considerations of natural affection and consanguinity alone, but were willing at the same time to keep an open mind as to the claims of persons or class of persons who should be excluded from inheritance, or should not, on that basis : the latter class of persons being also willing to readjust the position of the different heirs as proposed in the order of succession, in one of the bills, and to consider the preferential claims of heirs other than those specified in it, mentioning other persons than those named in it and prescribing a different order in which succession, according to their opinion, should take place.

(*d*) Of persons who objected to both the bills on the ground of undesirability of piece-meal legislation, that is to say, on the ground that " the Hindu scheme of inheritance should not be taken up piece-meal and condemned, and that the thing should be taken up in its totality," one part of the scheme being incapable of detachment and separate treatment, irrespective of its other parts.

(*e*) Of persons who are unwilling to over-ride the injunctions of the Hindu Smritis and are prepared to abide by the system which still holds the mind of the vast majority of the Hindu population of India, and who regard bills of the character in question as something revolutionising the fundamental principles of Hindu religion and sociology, and take them, moreover, as intended to operate as the thin end of the wedge, in view of the declaration of the propounder in his manifesto that what he has introduced " does not go far enough—but a beginning has to be made." When the ice is once broken, the flow would be easy enough. This class of persons also entertain the opinion that the destructive character of these bills has no compensating good to shew to the Hindu public.

(*f*) Of persons who think that, apart from other considerations the bills are unnecessary, inasmuch as a Hindu governed by the Mitakshara law can dispose of his separate property by will by the law of the country, and thereby bequeath his property to any one who comes under the operation of any one of these two bills.

(g) Of persons who think that psychologically speaking there is no real hardship, because a man's mind naturally takes the rules of succession as fixed rules regulating succession from before the moment of his birth, and he does not build hopes at any time of his life contrary to these fixed rules. A person excluded from inheritance altogether or when his claims to succession are postponed to those of others, either does not expect any inheritance at all, or is reconciled to his position in the order of succession according to these fixed laws, and consequently there is no disappointment and frustrated hope in his case, and, therefore, no hardship inviting remedy on humanitarian considerations.

(h) Of persons who oppose the measures on the ground that it is the constitutional right of Hindus to have matters of principle relating to their personal laws altered, if really necessary, by themselves alone, and not through the votes of non-Hindus who by the very fact of their being non-Hindus are, generally speaking, either incapable of sympathising with Hindu feelings and sentiments, or are positively hostile to them.

It may be interesting to refer here to the opinion of Mr. V. M. Ferrors, M.A., I.C.S., District Judge of Canara, expressed in his letter to the Government of Bombay, which serves to reflect the opinion of that class of persons who have strong religious views of their own, and who from an extraneous point of view, can sympathise with orthodox Hindu feeling in the matter. He says :—

"Being myself much addicted to a religion of my own, I observe with recurring surprise, the readiness of some Hindus, and some Muhammadans to submit their sacred Law, to the manipulations of secular legislature.

"In my opinion these operations are perilous. A proposal for the reformation of an ancient faith may seem attractive and liberal; but to such a process there is no end. The theory of the Hindu Law is (I believe) similar to the theory of every other religion. The revelation once delivered by the Rishis is the very Dayspring from on High. It may be too dazzling to be clearly seen. It cannot possibly be in need of correction. When the navigator observes that the sun reaches the zenith before the hand of his clock touches noon, he puts his clock on. The more liberal proposal is to put the sun back. But this cannot be done. There is, in my opinion, only one answer which orthodox piety can possibly make to all these amendments. It is "non possumus." Let it once be admitted that it is possible with advantage to eliminate and decrassify the deposit of faith, and that a secular Assembly can carry out the process, then the whole case is lost. The first step I am not master to take, but there is no second stepping place.

"An Imperial Government may lay down a law to be obeyed by all subjects alike. But a secular body which undertakes even

for the most pious and reverent purposes, to select and rearrange the sacred books, and to decide what shall have the force of law and what shall fall into desuetude and oblivion, is undertaking a perilous task. When the oxen stumbled which bore the ark, Oza laid his hand upon it to uphold it; and Oza was struck dead. The parable is too plain to be misunderstood. If the new legislatures rashly engage upon these enterprises, they must infallibly encounter the most deadly and obstinate ill-will." "These considerations apply with special force to the blind, the deformed and the feeble-minded."

Proceeding further he observes, "The Hindu religion takes the same view as the medical science. Disease is a sign of sin, and there a disqualification for full communion."..... ..... "Economically the case for disinheritance is equally strong. He that cannot contribute to the common fund has no claim to full share. Charity may concede him a maintenance; but distributive justice will not admit him to equal membership.....Aristotle and Plato stand for opposite schools. But Aristotle and Plato agree in taking it for granted that blind, mis-shapen infants should be destroyed as soon as they come to this world. The Hindu religion makes a concession to mercy; it allows such children to live. But this is as far it will go."

The next set of facts relating to the progress of the bills in the Assembly which deserves attention is the perfunctory and casual manner in which the Select Committee meetings were held, showing an almost complete lack of appreciation of the great importance and seriousness of the issues raised by them, on the part of most of the members of those committees, their want of sympathy for orthodox feeling in the matter, and their failure to tackle the various suggestions as to the interposition of other heirs or possible heirs both male and female in the order of succession adumbrated by the bill proposing to alter the order of succession, which are to be found in the opinions of some of the persons who were consulted by Government. A for example, the Select Committee never took into consideration the question why, if the Mitakshara order of succession was to be suspended in order to make room for the sister, the estate of the propositus should, in the first place, go to the line of a divided brother down to his grandson and why not down to his great grandson, and again, why not preferentially to the son's daughter or the grandson's daughter or the daughter's daughter? On the ground of propinquity alone, the sister should inherit along with the brother, or at any rate, immediately after the divided brother; and if the sister happened to live with the propositus, and his brother lived separately from them both, why should the sister not succeed him before his separated brother?

The propounder of this bill in his speech at its last stages in the Assembly floundered in an inexplicable manner in trying to support his case by means of invoking the authority of the Mitakshara itself, while in the same breath denouncing the order of succession mentioned by that authority; in fact, its avowed object was to drive a coach and four through the order of succession mentioned in the Mitakshara. Similarly, the propounder of this bill as well as the Select Committee nominated by him failed to take any notice of the brother's

widow, the son's widow, the grandson's widow, etc., in the line of heirs. These widows are recognised as heirs in the Bombay Presidency. Why was not a word said about them? Next time some reformer takes up the cudgels on behalf of these objects of sympathy, will not the whole line of heirs as settled by Mr. Sheshagiri Aiyar's bill be liable to be unsettled? If he and his Select Committee were blind to these facts, surely Government should not shut their eyes to these and various other matters which must come up for consideration in connection with a re-adjustment of the line of succession. An impartial observer not obsessed with the idea of rushing a particular bill of his own through the legislature, can have no difficulty in concluding that if any readjustment of the order of succession is wanted, the question must be considered as a whole and not by driblets, a small part of it only being contemplated at one time to the exclusion of the remainder. To quote from the speech which the Law Member, the Hon'ble Mr. Tej Bahadur Sapru, as he then was, made on the 10th September 1921, when the propounder Mr. Shesagiri Aiyar, moved for leave to introduce his bill regarding exclusion—"The Hindu Law is an inheritance from the past, and I speak with experience of 25 years in the profession, when I say that it would be a great mistake for any lawyer, however eminent and however ambitious he may be, to pick out a particular portion of Hindu Law, and to deal with it as if it had no relation with the rest of Hindu Law. There is in such attempt a lurking danger, and it has always got to be guarded against. Personally speaking, I feel the real test of radicalism will be not this bill, but when another bill which is connected with the name of my Hon'ble friend Dr. Gour, comes before the House (The Civil Marriage Amendment Bill). Therefore what I would say to my Hon'ble colleagues here is, by all means proceed to reform your Hindu Law, but do not be in a hurry to do it. Do not think that you can in the course of half an hour or 15 minutes reform the Hindu Law, which requires very careful consideration and which requires a much more comprehensive view than you can give when you are dealing with an isolated bill of this character."

It should be remembered that this Hon'ble Member of the Government proclaimed in the House on that occasion, that he always claimed himself "in these matters, to be a radical." Yet he thought it was necessary in the interests of the community to sound a note of warning. But alas! all this was to no purpose.

Let Mr. Rangachariar, M.L.A., a Member of the Select Committee appointed to consider the bill relating to Exclusion from Inheritance, speak as to the manner in which the Select Committee performed its functions in respect of it, in spite of the grave warning given from time to time by responsible members in the House, and by thoughtful men outside of it. This is what he says in his minute of dissent, dated 8th March, 1923:—

"I have in the first place to place on record my protest against the way in which the Select Committee meetings on this important measure were convened, cancelled, or held. The first meeting was convened for Wednesday the 21st February, to be held after the Assembly was to rise for the day. The Assembly rose for the day rather late after dealing with two or three important legislative measures. On Thursday the 22nd February a notice was circulated in the Council Chamber that the meeting would be held after the Assembly rose on

that day. The Assembly rose after 6 P M. that day, the meeting could not be held, and on Saturday the 24th February at about 12-30 P.M. a notice was again circulated that the meeting would be held at about 2-30. P.M. that afternoon. I informed the mover of the bill that I could not attend the meeting as I had previously arranged to attend the meeting of the Mercantile Marine Committee that afternoon. The mover of the bill at about 2-15 P.M. took the permission of the House, just as the Assembly was rising, to get two names added to the Select Committee from the panel of Chairman namely those of Sir Campbell Rhodes and Moulvi Abul Kasem. The meeting was held that afternoon at about 3 P.M."; (O tempora ! O mores !). " Of the 14 members, 9 were present at that meeting, and the following two points were unanimously decided :

That the Presidency of Bengal should not be excluded from the operation of the bill ; and that eunuchs and impotent persons should not be excluded from inheritance : and it was further resolved, by a majority of 6 to 3 that persons born blind should not be excluded.

By a majority of 6 to 2 that the deaf or dumb or deaf and dumb should not be excluded.

By a majority of 4 to 3 that blind and deaf or blind and dumb should not be excluded.

By a majority of 4 to 3 that born idiots and lunatics should be excluded.

By a majority of 5 to 3 that lunacy not congenital should not be excluded, and

By a majority of 6 to 2 that incurable diseases should not be a ground for exclusion ; and a motion that persons who are let in should take only a limited estate akin to that of a widow's estate, was negatived by a majority of 4 to 3.

" The following Hindu members and the Hon'ble the Home Member were absent at that meeting:—Messrs. Subrahmanyam, Rangachariar. Harchandrai Vishindas, and Sir Devaprasad Sarbadhicary. The title of the bill was also altered at that meeting. A later meeting was held to pass the report. This was on Saturday the 2nd of March, from which the following members were absent—Messrs. Chaudhuri, Subrahmanyam, Venkatapatiraju, Lala Ghuidharilal Agarwala, Harchandrai Vishindas, Sir Devaprasad Sarbadhicary, and Sir Campbell Rhodes and Moulvi Abul Kasem. I was able to be present at that meeting. We had to take the decision of the former meeting as binding, and the only questions considered were, whether the bill should be recirculated in view of the unanimous decision to include Bengal, and the suggestions from me to include saving clauses to protect vested rights and religious offices and charitable trusts from the operation of the bill. It would be seen that in consequence of the hurried summoning of meetings, members of the Select Committee were unable to be present, and this measure has not received that full consideration which it ought to have received ; and also there has been a sharp difference of opinion on various points. It is not difficult to imagine that all this happened because the mover was very anxious to get his bill passed during the session in question, being sure of the votes of his supporters, no matter whether his bills found time to receive full consideration or not."

It is not necessary to prolong this study by making further quotations from official papers. It will be enough if the attention of the public is drawn to the fact that the nomination of members to the Select Committees practically remained throughout in the hands of the mover, that it is difficult to discover any principle, if at all, on which the Select Committees were constituted, or the object with which members, such as Moulvi Abul Kasem and Sir Campbell Rhodes who are not known to the public as having either any expert knowledge of Hindu Law or of the orthodox feeling in the matter, were empanelled almost at the last moment. One thing, however, clearly stands out, that they both signed the reports of the Select Committee on both these bills in an unquestioning manner, and that Mr. Abul Kasem who voted against the very introduction of one of the bills gave his support to it at its later stages in the Assembly. What miracle had come into play in the interval ?

It is perfectly clear that Government by adopting the position they did in these matters of social legislation lost all control as regards the proper direction of these bills in their passage through the Assembly, although they might be strongly disposed, theoretically speaking, to put in fair play and justice, as also a consideration of the broader aspects of the questions raised, and were anxious not to do violence to orthodox Hindu feeling. However much Sir William Vincent, as Home Member, and Sir Tej Bahadur Sapru, as Law Member of the Government, might warn the mover and his following in the Assembly to think calmly and proceed cautiously and judicially in the matter, Government practically dropped the reins from their hands by allowing the mover to have his own way in treating the bills as his private property, contrary to the procedure which the British Parliament would take in the matter of all public bills, which category would include bills, like Dr. Gour's different bills and Mr. Sheshagiri Aiyar's bills in question.

In March 1923 although Government allowed these members an opportunity of putting their bills through the House, they knew perfectly well that they could not give adequate time for the consideration of these important measures of social legislation. The Members of the Assembly were overworked with the consideration of the budget demands, the Finance Bill, the Criminal Procedure Code (Amendment) Bill, and several other important legislative measures. But Government were not prepared to face the criticism of the party which were bent upon putting through their bills. The bills of Mr. Aiyar were of a nature that involved a subversion of the very root principles on which Hindu Law is based, and they required consideration in the first place by a committee of experts alone, in their relation to the whole system of the Hindu Law of succession in general. For this purpose a sufficiently long period of time was necessary for collecting materials, examining witnesses, etc. But not only was not such a course taken, but time could not be found for even a cursory examination of the principles as well as the details of these bills.

The reports of the Select Committees on Mr. Sheshagiri Aiyar's two bills were presented to the House on the 14th March, 1923, and no date could be found in that month for the consideration of these measures although they affected the personal laws of millions of His Majesty's Hindu subjects in India excepting the last day of the session when the House had thinned down considerably, so much so, that at one point of time on that day (27th March, 1923)

at about 2-45 P.M. it was doubtful whether even 25 members were present in the House. In spite of the manifest lack of proper consideration of these bills and of a proper circulation among the orthodox classes of Hindus all over India, in spite of the patent fact that there was no driving urgency for legislation from the general body of orthodox Hindus themselves, and, generally speaking, in the absence of any substantial mass of public opinion behind the proposed legislation necessitating its introduction, the mover was anxious that his bills should be passed during the session, and insisted that no further consideration of these measures was at all necessary, much less any further circulation among the classes of orthodox Hindus who or whose religious or social leaders had no opportunity at all of fully comprehending and considering the effect of these measures on their social polity, and of formulating their opinion with regard to them. We all know how slowly things move in the East, especially in this country. One would be inclined to think, under these circumstances, that nothing short of a persistent agitation through newspapers or otherwise, directed to the points raised and extending over a number of years would be sufficient for orthodox opinion to crystalise itself in the present unorganised state of the country. And then again, it was possible only for a picked body of men learned in Hindu Law and in sympathy with and representing orthodox opinion on the points raised, working in co-operation for a sufficiently long space of time, to evolve, and give shape to, a reform, if needed at all, in consonance with the general trend of orthodox Hindu feeling. Members of Government might be inclined, in an abstract sense, for such a necessary procedure; but unfortunately, at the same time, Government had given themselves away by allowing non-Hindu official members to vote on the bills knowing perfectly well that being non-Hindus themselves, their own sympathies would lie in the direction of their own personal laws; and, broadly speaking, they were bound, more or less, to suffer from a general incapacity to gauge or appreciate orthodox Hindu feeling on the subject. This legislative *contretemps* took place in the natural sequence of things following upon the Government attitude, although broad-minded members of Government proclaimed from their place in the Assembly that it was for the Hindus alone to solve the problems raised by the bills as these persons alone were directly and intimately connected with them. In spite of the proclaimed neutrality of Government in this matter, the present Law Member who is a Mahommadan by persuasion, failed to suppress his real feeling in the matter, and gratuitously intervened in the debate on the 15th February, 1923, when the promoter of the measure moved for reference of his bill relating to exclusion from Inheritance to a Select Committee nominated by him. This Hon'ble Member of the Government, who had recently assumed the portfolio of law said :—"That being the position of the Government (*i.e.*, a position of neutrality), it is hardly necessary for me to make a speech on this motion. But there is one point to which I think I might be permitted to invite the attention of the House. It has been said by more than one speaker that the real basis of the right of inheritance in Hindu Law is the capacity to perform oblations. Well, until the passing of a certain enactment, apostacy or conversion to a religion other than Hinduism, was a disqualification for inheritance, because the converted person, having ceased to be a Hindu, was thereafter incapacitated from performing oblations. Nevertheless, the Indian Legislature passed an Act known as the Freedom of Religion Act (XXI of 1850) whereby apostacy

or conversion from Hinduism to another religion, no longer deprives a person from inheriting to his Hindu relations." If the Hon'ble Member had kept himself informed of the proceedings in the House before he had appeared in it as Law Member, he would have found that this point had been urged very often by members who wanted to demolish the foundations of Hindu Law and sociology by means of irresponsible legislation. In the circumstances, the regrettable effect which his really uncalled for and unfortunate observations were calculated to produce on the mind of certain members, and especially of his own co-religionists in the Assembly, was that they though it would be the correct thing to vote in favour of Mr. Aiyar's bills. Was this evidence of neutrality on the part of the members of Government? However, the obvious answer to such an argument as the above is, that the Act was passed by a Government possessing unqualified autocratic powers, in defiance of orthodox Hindu opinion, and if the orthodox Hindus ever got their chance of re-opening the matter under a really reformed constitution, they would try and have the Act repealed. However, the Act of 1850, such as it is, attempted at a camouflage in getting round the provisions of the Hindu Law on the point, and refrained from delivering a frontal attack on the Hindu system such as the radicalism of Mr. Sheshagiri Aiyar has succeeded in delivering, in spite of his inconsistent professions of unintelligible orthodoxy. It will be curious to note the effect on the mentality of our Mahomedan brethren if a bill proposing to enact "that notwithstanding any rule of Mahomedan Law to the contrary, the share of inheritance of a son in a Mahomedan family shall be equal to that of the daughter" (*i.e.*, his sister), and not double that of the latter as it is now, as well as of other bills of a similar nature. This will accord strictly with modern ideas!

In his anxiety to get his bills passed at once such as they were, good, or bad or indifferent, and to avoid re-circulation, Mr. Sheshagiri Aiyar gave up Bengal at the last moment, although as a Member of the Select Committee he himself along with all of his colleagues present on the occasion, thought it absolutely necessary to include Bengal within the operation of his bills. Further comment on this legislative fiasco is perhaps unnecessary. It was apparent to the promoter of the bills who happens to be the leader of a party in the House, known as the Democratic party, and who was conscious of the support of his following whom he had canvassed, that he must be out for a victory then and there, and should not be prepared, as a tactitian, to open his mind to wider considerations of fairness and justice. He knew, perhaps, that it would be difficult on another occasion to get ten men to agree as to the position that should be accorded to the sister or other female relations of a deceased Hindu, or of the sons or grandsons of the daughters of the agnatic relations of such a person, after an unsettlement of the order of succession under the Mitakshara Law which his bills proposed to effect. Now or never was therefore his battle cry; so far as one can see.

Is there no remedy for such a hopeless state of things in the Indian Legislature for Hindus who are not denationalised? Will Hindu Law, and, for the matter of that, social legislation generally remain open to be treated as the private property of any individual member or his following in the Legislature even when they are found incapable of realising that as to the so-called educated man, when he really wants to effect any reform, "his influence in the country

in matters of religion is slender, and in fact, bears little relation to his position and influence in matters secular ?" It is clear, however, that orthodox Hindus, or for the matter of that, Mahomedans when not voting for the alteration of the Hindu Law, will never agree to sell their birth-right for something which is not even a mess of pottage.

The facts shew that Government had to occupy throughout the progress of these bills through the Assembly, practically the position of helpless spectators, without being able to guide the deliberations or, the progress of events, even when they might think the bills were taking a wrong course in their passage through the House.

In spite of what was declared by different members of Government as their attitude, the very important questions raised by the bills could not after all be allowed to be decided by the Hindu community. Under the circumstances, Government had to drift with the will of the Mover to a great extent. At the same time, one may venture to think, they positively erred in fixing a day for the passing of the bills when they knew that the bills could not receive due consideration, or that proper attendance was impossible, because the session was then breaking up. It seems that under existing circumstances, once sanction is given to any proposed legislation under section 67, clause (2) (*b*) of the Act, the Government is almost destined to drift into a passive and more or less helpless situation.

It is difficult to formulate any adequate remedy which may be acceptable to all interested in the matter of correct legislation. But the following points may be suggested tentatively for the consideration of the Government, the Legislature and Presidents of the two Houses, as also of the public :—

(1) Without fettering in any way his discretion within the meaning of section 67, clause (2) (*b*) of the Government of India Act, the Governor-General should lay down principles of action in granting or refusing sanction to the introduction of bills affecting the social or religious laws and rules of the different communities of India, within the meaning of that section. The Governor-General should be prepared to make all necessary inquiries, collect evidence, expert or otherwise, and ascertain the existence or otherwise of any outstanding opinion as to the principles and merits of any proposed measure of social or religious legislation, in order to determine whether sanction under that section should be granted or not, and that sanction should be withheld in respect of any such measure where there is no urgency of public opinion on the part of the people likely to be affected by the proposed legislation. A permanent committee or committees of inquiry may be appointed by him from time to time for this purpose according to need, with power to co-opt local or temporary members wherever necessary.

(2) There should be a standing committee in the Legislative Assembly corresponding to the Committee of Selection in the House of Commons, with functions similar to those of such committee

in that House, specially with regard to bills introduced by non-official members, saving, of course, those functions which have been vested in the Indian Legislature as a whole by the Government of India Act and the rules framed under it.

(3) After a bill proposing to affect any community has been introduced, a committee of experts in the House may be appointed to report on it, as to its merits and defects, suggesting means towards making it more perfect, or suggesting its rejection whenever desirable; such committee, to consist mainly of the representatives of the community concerned, and of men who are well versed in the system of law under which the bill has been prepared. The members of this Committee should have power like that of Select Committees, to examine witnesses, call for and examine documents, in particular, public petitions concerning such bills. This committee should be amenable to the instructions that may be issued to them. It will have to be appointed by the Committee of Selection.

(4) For a comparatively free and unrestrained consideration of public bills by the members generally, provision should be made for a committee of the whole House, whenever necessary.

(5) Instructions similar to those issued in the House of Commons, should issue either from the Executive Government or from the Committee of Selection that may be appointed by the House, with a view to guide the course to be taken by all committees, whether Standing Committees or Select Committees, during the progress of any public bill in the Legislature, with a view to ensure a fair and just treatment and to remove defects, if any, in such bills and make it more comprehensive and perfect, specially in their relation to other parts of the system of law or jurisprudence of which the proposed legislation is a part or with which system it is intimately connected.

(6) That with a view to ensure greater perfection in legislation, to obtain more time for consideration than is possible under the existing Rules and Standing Orders, to make all necessary enquiries and for recording all necessary evidence, a public bill, wherever necessary, should not be allowed to die invariably with the expiration of the life of a parliament, and if such a bill fails to be passed during the life of any one parliament, and if in the opinion of the House it should be transmitted to the next parliament, it must be so done; and where the promoter of a public bill ceases to be a member of the next parliament government should take it up themselves whenever necessary, or place it in charge of any member whom the Legislature may, nominate for the purpose, and who may be willing to steer it through the House.

It would have been better if the spirit of the Acts of Parliament passed years ago and of the Indian rules and regulations prohibiting the interference

of Government in religious and social matters of the Indian Communities through the process of Legislation, had been followed in the present Government of India Act; and legislation affecting the religions or religious rites or usages of all classes of subjects in British India, had been kept out of the Indian Legislature altogether and the origination of measures affecting their personal and communal laws had been left to a separate organisation consisting entirely of members of the community concerned, the ultimate stamp of statutory authority in respect of such measures being retained in the hands of the Executive Government alone. But any such proposal wou'd require for its sanction the authority of a Parliamentary Statute, and fresh legislation on these lines is, it seems, beyond the competency of the Indian Legislature. It seems possible, however, that Standing Orders could be passed under the present Government of India Act in order to ensure justice and fair play in the matter of all proposed social legislation. At any rate, something must be done and done quickly to meet the situation. The country is beginning to cry "Save me from my friends"!

21st August, 1923. JOGENDRA NATH MUKHERJEE, M.L.A.

H431HD

Memorandum by the Hon'ble Syed Raza Ali, B.A., L.L.B., Member of the Council of State, Vakil, High Court, Allahabad.

The Central Government.

1. I wish I had a cut and dry scheme to be presented to the Committee for introducing a substantial element of responsibility in the Central Government. But I regret I am unable to do so. There is a large volume of Indian opinion—opinion entitled to the greatest consideration—which seeks to solve the problem by putting the ministers in charge of all the subjects except foreign and political relations and defence. There is such a consensus of Indian opinion on the question that at times I begin to entertain serious doubts whether it is right for me to differ from it. The great point in its favour, I recognise, is that if the scheme were given effect to it would prevent the introduction of dyarchy which has been condemned in unmeasured terms by those who have worked it. The Foreign and Political Secretaries, not being members of the Executive Council, the only member of the official executive left to work with the ministers would be the Commander-in-Chief. It is not free from doubt whether on a strict construction of section 36 of the Government of India Act the Commander-in-Chief ought to be a member of the Executive Council. Be that as it may, it is conceded by the exponents of the scheme that a fixed sum of money not to be put to the Assembly's vote is to be earmarked for the purposes of defence, which would greatly reduce the chances of friction between the official and non-official portions of the Central Government. The main reason why I do not urge its acceptance is that I realise that all the subjects in the provinces must be transferred to popular control before a substantial element of responsibility is introduced in the centre. Another important consideration is the present narrow electorate for the Assembly. I attach the greatest importance to enfranchising very large sections of our population. Objeciton is taken to the existing electorate on two grounds ; its quantity and its quality. The fairest and safest way of extending the franchise being to include all those classes who will feel the incidence of new taxation imposed by the men they return, I would give the vote to every person who pays any Central, provincial, municipal or local tax. I would also do away with the artificial distinction on which voters for the Assembly and voters for a Provincial Council are registered. This would give us an electorate strong in numbers. The second objection that the electors are illiterate and not capable of forming an opinion on political issues is without force. True, a large proportion of them is illiterate but the test of literacy cannot be a test of universal application, nor is it always a sound test. Mr. Lionel Curtis, who devoted considerable time and energy to a study of Indian conditions in 1916-18 and whose services to India have drawn a tribute of appreciation even from those of my countrymen who felt sceptical about his activities, makes the following observation in discussing the capacity of a rural voter in India :—" Speaking of my own village in England, I would trust the political judgment of a small holder who could not write his name, more than I would that of the Schoolmaster imported from London ". As one coming from a village and who in his professional and public capacities has been in close and constant touch with the rural population I can say that the Indian agriculturist, though illiterate is not wanting either in intelligence or practical wisdom. He does not

understand your currency and exchange questions or delicate constitutional problems but he does know what is good for him and, generally speaking, for his country and which way their interests lie.

2. As political life is a series of compromises between alternatives, and those too not always of the best, I would make an alternative proposal. There is a clear distinction between the functions of the Central and Provincial Governments. The latter are charged with day-to-day administration and it is the Government of India that generally decide big questions of policy. Conceding that the exercise of more caution in the centre is justified it is unjustifiable to refuse to improve the present constitution which in a way courts deadlocks between the Executive and Legislature. In fact it is open to question whether the forcible objections urged by Mr. Montagu and Lord Chelmsford in their report against the Congress-League scheme do not apply with equal force to some of the provisions of the Government of India Act. The basic principle of that scheme was the investment of the Legislature with the power of the purse. Effect has been given to that principle to an appreciable extent. But the working of the Act has shown that it ought to have been accompanied by the transfer of some measure of responsibility to the representatives of the people. The error can only be rectified by placing certain departments in charge of a minister. True, it will be introducing something like dyarchy which is generally condemned. But it will work much better than the present system. It will give the Legislature something definite to do. I do not anticipate that it will remove all chances of friction between it and the Executive. But it will certainly tend to make their relations more harmonious. Above all it will afford opportunities of training to the people and gradually enable them to undertake higher responsibilities in the future. I would also provide for the administration of the ministers' departments being taken over by a member of the Executive Council in case of emergency.

3. To improve our relations with the Indian States it is desirable that 2 or 3 Ruling Princes and Chiefs should be nominated as members of the Central Legislature. It is unfortunate that the power taken under section 64 (2) of the Act has not hitherto been exercised. The Chamber of Princes is the body whose services can be utilised in this connection.

4. Another reform which requires an amendment of the Act is the election of its President by the Council of State. The elected element being in a majority it is repugnant to the spirit of the constitution that the power of appointment vests in the Governor General. To set the machinery in working order it was not without justification, it might even have been necessary, to have an official president. But the time has arrived for entrusting the power to the Council.

5. To secure as far as possible the co-operation of European commerce and the Anglo-Indian Community I would not hesitate to give them one or two more seats. I have no doubt that European commercial interests will be perfectly secure in the hands of Indians. India has nothing to gain by antagonising such interests and has always been ready to meet them half way. Nor are we less desirous of working hand in hand with our Anglo-Indian fellow-subjects. Though of the Country they have an unfortunate tendency of looking upon themselves as outside it. It is for us to win their confidence by showing towards them a spirit of goodwill and fair play. Depressed classes should also be given representation in the Assembly.

6. There is an idea abroad that there is a prejudice in high quarters against putting the Indian Members of the Executive Council in charge of the Home and Finance Departments. One has to remember that the new scheme has not been in force for a sufficiently long time to afford many opportunities to the Government of taking action in the desired direction. Nor can the fact be ignored that under the present system an official must, in addition to his own merit, have undergone an elaborate training before he is put in charge of the Home Department. Yet, the importance of the step cannot be emphasised too much. In the provinces there are several Indians to whom the portfolio of home affairs is entrusted. A certain province, which used to be known for its sturdy loyalty, has the singular fortune of possessing an Indian Finance Member. When will the time come for the Government of India to follow the example set by the provinces ? Nor have Indians been admitted freely to the Secretariat of the Government of India—a matter which has been the subject of discussion twice in the Council of State. The only way to prepare Indians for full Self-Government is to appoint them to such positions. If opportunities of service are withheld from them now, let not the argument be used against them hereafter that men of necessary training and calibre are not forthcoming to run the Central Government as ministers.

7. I feel that before leaving the Central Government it is my duty to say a few words on the general situation. For three years the new machinery was worked by men who under the fire of fierce adverse criticism had sought election to the Central Legislature determined to help the Government by putting their shoulder to the wheel. Perhaps no legislature with a new constitution ever started under more favourable circumstances than the Assembly in 1921. Yet early in the second year of its life the inherent defect of the Act in yoking together an irremovable executive and a curiously responsible or irresponsible legislature began to be felt. In the third year the breach was open. I do not propose to apportion blame between the two. In fact I can say from personal observation that each tried to accommodate the other to a great extent. If the Assembly generally extended its wholehearted support to the Government the latter responded by consenting to the repeal of certain repressive laws including the Press Act and to a modification of the privileges of European British subjects in criminal trials. The spirit of give-and-take was there in abundance but the system did not work because it is unworkable. I have purposely chosen for examination the period prior to the second general election. What is happening now is too well known. It will be singularly unfortunate if the presence of the Swarajists in the Assembly tends to prejudice a dispassionate consideration of the issue on its merits. I strongly deprecate the obstructive methods pursued by them at Delhi. The development of the general political situation since and, particularly, their attitude at Simla are signs of happy augury. It is to be hoped that if the constitution is sufficiently liberalised it will remove their honest objections to actively co-operate with the Government.

Governments of Governor's Provinces.

8. Dyarchy may or may not have failed—though public opinion has pronounced on it the verdict of " utter failure "—I am for transferring all the subjects to the ministers' control. The reason why I take this view is that the risk involved in the proposal is so small as to be almost negligible or it can be made almost negligible by the adoption of proper safeguards. In fact the authors of the reform scheme of 1919—to whom we are deeply

grateful for what they did for the Country—were over-cautious in artificially dividing the subjects into "reserved" and "transferred." No such distinction should have been made then and it is high time that it should go. I am free to admit that the existing electorate is small but as I have already pointed out it can and ought to be expanded very considerably. Again the Council is thoroughly representative in character inasmuch as all important interests, classes and communities are represented there. Whatever may be the conditions in other provinces I have no doubt that the historic Hindustan is quite capable of managing its own affairs. It has a common language, possesses four universities and the depressed class problem is practically unknown to it. Of late there has been some trouble between the Hindu and Moslim communities owing to the selection of a few United Provinces districts as the field of their activities by the organisers of the Shuddhi and Sangathan propaganda. It is to be hoped that this is a passing phase and with the relaxation of the propagandist's efforts normal relations between the communities will be restored. To prevent any misunderstanding I must thankfully acknowledge that it was in the United Provinces that as a result of the compromise arrived at between the Hindu and Moslim members of the Legislative Council, the principle of communal representation was given statutory recognition in the United Provinces Municipalities Act passed in 1916. The passing of the Act was followed by a huge agitation but I must note that it was led by a journalist who did not belong to the province. Again it was at Lucknow that the Congress-League compact was finally sanctioned in December 1916.

9. Practical objections may be urged against the transfer of Law and Justice (in which I include the Police) and conceivably of Land Revenue to popular control in certain provinces. I would meet them by giving to the Governor in relation to these subjects the power to veto and to affirm which power is vested in him in relation to reserved subjects under section 50. As regards the administration of the other subjects he may be empowered to refer a question to be considered at a meeting of all the ministers but may not overrule a unanimous cabinet. This would necessitate an alteration in section 52.

10. With the introduction of a responsible executive such as is described above the ultimate object of every province should be to constitute its own services from the lowest to the highest. But to enable the new constitution to fit in with the existing conditions without subjecting them to unnecessary strain, it is obvious that the officers of what are at present known as the Indian Services will have to be employed by the provinces for a long time to come. Such services should be responsible to the Government of India and to create a sense of future security their rights and privileges should be safeguarded by an act of the Indian Legislature with a provision, if necessary, that it should not be altered, amended or modified unless two-thirds of the members of the Assembly voted in favour of such alteration, amendment or modification.

11. As there seems to be a good deal of confusion on the subject of communal representation it is necessary to notice it in passing. India's goal is self-government. But how is she going to attain it? She can do so either by wiping out the differences and dissensions arising between races, religious, classes and communities in the shaping of political issues or she must provide for their due representation. In the former case we will have to wait indefinitely. The latter seems to be the only feasible course. It was a stern relisation of this situation that drove a number

of far-sighted Indians and Englishmen to have recourse to communal and special representation. Originally devised to redress the grievances of the Mussalmans who proved by facts and figures how they had been swamped, to quote from the address they presented to Lord Minto on the 1st October 1906, by an " unsympathetic majority ", the principle has since been extended to several other communities. And it is well that it has been so extended for were it otherwise it is an open secret that the minorities and educationally backward communities would not have lent their support to the demand for constitutional advance. Lord Olivier's private letter which was unfortunately allowed to be published a couple of months ago and the evidence of certain witnesses before the Committee have produced feelings of alarm in the Moslim community. In fact even prior to it loud were the complaints raised by Bengal and the Punjab against the Congress-League compact. Their objection is that it is unfair and unjust to convert a majority into a minority. A resolution was adopted by the All-India Moslim League at its last session to the same effect. A breach of the compact by the non-Moslim members of the United Provinces Legislative Council in fixing Moslim representation at 25 per cent. in the case of the District Boards instead of 30 per cent. as mentioned in the compact formula, has certainly not lightened the task of those who are engaged in placing the relations of the two communities on a more stable footing. It is hardly necessary to recall the fate of the " Bengal National Pact ". What will happen to the minorities and backward communities if communal representation is abolished ? On the assumption that they were coerced into submission, it would result in the inauguration of an oligarchy instead of a democracy. It is somewhat significant that though the Moslim members are not exactly in a majority in the Punjab Council, communal representation has been condemned by its ex-minister. Viewed in this light I leave it to impartial observers to judge what must be the feelings of the Mussalmans in the provinces where their representation ranges between 15 and 33 per cent. In my judgment we have two formidable obstacles in the way of our getting full self-government ; the unpreparedness of the Country, whatever may have been the causes, to undertake its defence and a lack of that sense of confidence between class and class which asserting itself in a variety of ways in our day-to-day life imperceptibly operates to check a rapid growth of the true spirit of citizenship. So irresistible is this tendency that at times even highly educated people, who ought to know better, act in a manner which suggests as if they believe that they will wake up one fine morning to find that Swaraj or self-government has come without their being required to work for it. A recent case in point is the adverse comment of the " Leader "—which generally represents the views of the Liberal party—on the selection of a senior Moslim Deputy Collector to officiate as Deputy Registrar of Co-operative Societies. The editorial note which is headed " Favouritism " suggests that the claims of a Hindu candidate have been passed over because the minister in charge of the department is a Mussalman. I would not have taken any notice of this writing but for the fact that the editor of the newspaper is a gentleman who till last year was himself a minister in the United Provinces. We are not concerned with the merits of this particular appointment any more than with those made by the journalist-minister during his tenure of office. The point is that if an appointment cannot be criticised without attributing unworthy motives to the other community, India must wait long before she can qualify herself for complete self-government.

12. The benefits of the reform schemes of 1909 and 1919 were not extended to the North-West Frontier Province. It is inhabited by a manly people endowed with remarkable intelligence and strong common sense. They have made satisfactory progress in education since they separated from the Punjab. Of late there has been considerable political awakening and they bitterly resent that all opportunities of political advancement have been denied to them. Nawab Sir Abdul Qaiyyum Khan, a nominated member of the Assembly from the Province, forcibly pointed out their grievances in the discussion on the autonomy resolution in February last. The report of the Frontier Enquiry Committee, which will soon come up before the Council of State and the Assembly, has made out a strong case for giving them liberal reforms. I would suggest that, if necessary, the Government of India Act should be so amended as to give free scope for satisfying the political aspirations of the Frontier Provinces.

The Council of India.

13. There may have been a time when it was necessary to have this Council. But it is open to question whether it performs any useful functions now. Its main business is to exercise a rigid financial control which ill accords with the development and growth of representative institutions in India. I would suggest its abolition.

Memorandum by Moulvi Mohd. Yakub, M.L.A., of Moradabad.

Personal.

As a prelude to my observations, I write a few words here as to my capacity in which I am addressing you on the subject.

I am a member of the Legislative Assembly, representing an important section of the Musalmans of Rohilkhand and Kumaon Divisions. I am one of the oldest members of the All-India Muslim League and a member of its Executive Council. I was a trustee of the late M. A. O. College, Aligarh, and am now a member of the Court of the Aligarh Muslim University. I was the first non-official Chairman of Moradabad Municipal Board, my election being unanimous. And I am the senior Vice-Chairman of Moradabad District Board for the last 9 years.

Preliminary.

Before dealing with the question of Reforms, I wish to make it clear that I do not consider the present enquiry as a satisfactory response to the Resolution of Demands passed by the Legislative Assembly in February last by an overwhelming majority. Nor do I consider that any reforms within the Government of India Act 1919 (9 and 10 Geo. 5, Ch. 101) can lead to the " progressive realisation of responsible Government in British India." However I do not favour the idea of boycotting the present enquiry, defective although it may be. And I do not think it would serve any good purpose to keep ourselves aloof from the enquiry. Keeping this point in view I venture to submit my statement to the Committee, although I think my observations will not add ingenuity to the information which the Committee has already received from the instructive and illuminating statements of veteran politicians and experienced statesmen of the country. It is quite evident that I have got very little practical experience of the Government of India Act of 1919, and although I have been taking some interest in the politics of the country for about the last 16 years but my experience of the Indian Legislative Councils is of a very recent date, therefore, my statement will naturally assume the form of general observations.

The power of Indian Legislature.

Coming to the point, I beg to submit that I do not consider the present Legislative bodies, both provincial and central, more than ordinary students' debating societies and unless the acts and resolutions passed by these bodies, at least such of them as do not relate to the defence of the Country and its relations with foreign powers, are declared as having a binding force without the sanction of the Governor or the Governor-General, as the case may be, there can be no realisation even of a shadow of responsible Government in the Country.

I would therefore propose that sections 12, 13 and 24, sub-section (4) of the Government of India Act, 1919 and sections 68 and 69 of the Government of India Act of 1915 (5 and 6 Geo. 5, Ch. 61) should be amended in the light of the observations made above.

Power to fix the time and duration of the Legislative Sessions.

The power of fixing the time and duration of the Sessions of the Legislative bodies, which is at present vested in the Governor-General and the Governors of Provinces is a great check on the independence of the Legislature and hampers the business to a great extent. And the misuse of this power renders the Legislature altogether helpless and impotent. The Governor-General and the Provincial Governors, have got an unrestricted power to postpone the calling of the Sessions for any length of time in order to avoid discussions on important and momentous questions. In order to avoid this eventuality a proviso should be added to section 3, sub-section (2) and section 21, sub-section (2) of the Government of India Act of 1919, to the effect that if two-thirds of the elected members of any Legislative body apply, in writing, to the Governor-General or the Governor of a Province for holding a Session it would be incumbent on him to call a session within a month of the date of receiving the requisition. And the duration of the sessions of the Legislature should in any case be left to the discretion of the body concerned.

The Council of the Secretary of State for India.

The Council of the Secretary of State for India is a useless body and a constitutional innovation. If no other cabinet minister, specially the Colonial Secretary, has got a Council there is no reason why the Secretary of State for India should have a Council. I would therefore suggest the total abolition of this body.

The Army.

It must be a sham constitution in which the representatives of the people have got no voice whatsoever in military matters. The Central Legislature must have some control over the Army in India and the question of determining the proportion of the European and Indian soldiers should be left to the vote of the Legislative Assembly.

In this connection I wish to record my strong protest against an Army Order by which the Musalmans of the United Provinces of Agra and Oudh are debarred from entering the Army. I consider it a great slur upon the Musalmans of my Province and I would strongly urge the removal of this objectionable order, on the other hand I would recommend a larger representation of my co-religionists in the Army. The Musalmans of India being backward in higher education are not getting their proper and due share in the civil services of the country, for instance the judicial line of my province is nearly wiped off the Musalmans. In order to remove the dissatisfaction among the Musalmans, which is mostly due to their pecuniary distress, it is highly desirable that the doors of military services should be kept wide open for them and they should be afforded greater facilities to join the Army, for which they are naturally more suitable.

The Dyarchy.

I have got no personal experience of the Provincial Councils and therefore I cannot make any observations on the success or failure of the so much talked of dyarchy. I can say only this much that, on principle, the Ministers should be elected by the Councils, having due regard to the principle of communal representation, and section 4, sub-section (1) of the Government of India Act of 1919, should therefore be amended in the light of the above observations.

under the provisions of the Act, at present, a Provincial Government is almost an autocrat, and his Ministers are in no better position than the Assessors in a Sessions Trial. In order to give the Reforms some shape of reality, in section 4, sub-section (3) of the Act, after the word " unless " in the third line, the words " only in cases relating to law and order," should be inserted.

Provincial Autonomy.

I am not in favour of an immediate grant of Provincial Autonomy. With the present autocratic powers of the Provincial Governors and the impotency of the Legislative Councils, I think, Provincial Autonomy will do more harm than good. I am more keen for an extension of democratic powers in the Central Government than in the Provinces.

The powers of the Governor-General in Council.

The wordings of section 33 of the Government of India Act of 1915 are very wide and they confer upon the Governor-General in Council unlimited and unrestricted powers to do or undo whatever he likes. Under the cover of this section the Governor-General in Council can suspend and frustrate the who constitution of the country. I would therefore propose that in the section mentioned above after the words " vested in the Governor-General in Council ", the words " subject to the law for the time being in force in the country " be added.

Communal representation.

There is hardly any section of Muslim opinion in India which is not very keen about the separate communal representation of the Musalmans on all the controlling bodies, whether elected or selected and nominated.

For the " Development of self-governing institutions " and the realisation of " Responsible Government in British India," I consider the principle of communal representation as indispensable. I do not consider it as a necessary evil or a temporary method of elections, on the other hand I consider it identical with the principle of protection of minorities, which is recognised and acted upon by all civilised nations of the world. Democracy means a form of Government in which the supreme power is vested in the people *collectively*. There can be no real Democracy if the governing power of the country is vested only in the hands of one community or one section of the population of the Country.

Communal representation does not denote the distrust of one community towards another, but it only provides suitable and convenient method of elections in a huge country like ours where it is impossible for an ordinary voter to be acquainted with a candidate not belonging to his community. In a country like India the predominant community, without any dishonest motives, is always likely to swamp the minorities if there were no separate communal representation. The difference between the religious rites and social customs of the two great communities inhabiting India, is so great that without any prejudice or corrupt motive on the part of the majority the interests of the minority are bound to suffer. Therefore in order to safe-guard the interests of the minorities in India their representation, in all the institutions of the country must be separate and effective.

Communal friction and its effect on the political reform.

This leads me to the present state of relations between the Hindus and the Musalmans in India. Much has been made out of this unfortunate situation by the Anglo-Indian and reactionary papers and persons in India as well as in England. I do not wish to minimise the present state of feelings between the Hindus and the Musalmans. It has no doubt created a very grave and serious situation in the country, and the existing state of things is calculated to make us all, Hindus and Musalmans, to keep our heads down in shame. But it is absurd to say that India is not fit for responsible Government because of the internal disputes between the Hindus and Musalmans during the last three years. In a large country of the East, like India, where religion weilds a great power, inhabited by heterogeneous population, as it is, complete concord and harmony between different communities is impossible. Of course the present deplorable and abnormal state of affairs, which is to a great extent due to the Governments blunders which forced the country to non-co-operation, is only a re-action of the activities of the ignorant and misguided masses and is bound to assume a normal shape after completing its natural course. Even now I can see a silver line of light and hope shining at a distance through the dark clouds of communal frictions, which brought the unity conference at Delhi into being. However no country in the world was ever deprived of its natural right of self-Government on account of internal disputes; Ireland provides the latest illustration of this formula.

It would amount to a malicious subversion of facts to say that the Musalmans of India are not in favour of responsible Government and that they are opposed even to a step forward in that direction. Having great opportunities of mixing with the middle classes of the Musalmans of the country, who form the back-bone of every community, I can make bold to say that the Indian followers of the Great Prophet of Arabia are not an inch behind the line in this direction, on the other hand the religious leaders of the Musalmans who have a great hold upon the masses, are much more ahead of the Hindu priests in leading a forward march. Protection of minorities being the chief factor in a democratic constitution, the Musalmans of India cannot be opposed to the advent of that form of Government in our country. And a true Musalman can never be afraid of being crushed by the Hindus, it is against the real spirit of Islam to foster such cowardly and timid ideas.

Conclusion.

These, in my opinion, are our minimum immediate demands. Of course these measures will, gradually, have to be supplemented by a grant of full responsible Government, suitable to India. I believe my statement is very moderate and I am asking only for a small instalment of further reforms in the direction of self-Government. The time is more than ripe for such an instalment being granted and I trust that my appeal to the members of British Parliament, in whose hands lies the final settlement of the issue, will not have been addressed to them in vain.

MD. YAKUB,

M.L.A.

Dated Moradabad, the 31st October 1924.

Memorandum by Mr. C. Y. Chintamani, ex-Minister, United Provinces.

THE WORKING OF THE REFORMS.

As I understand that it is chiefly because I was a Minister that I have been honoured with the Committee's invitation to place before them my views on the working of the present system of government, I shall at the outset relate how it worked or was worked in the United Provinces between the January of 1921 and the May of 1923, the period during which I was Minister for Education and Industries (and several other subjects), first to his Excellency Sir Harcourt Butler and next to his Excellency Sir William Marris. Pandit Jagat Narayan was my colleague as Minister throughout this period, the Hon. the Raja of Mahmudabad was Home Member in the Executive Council and Sir Ludovic Porter, Mr. S. H. Fremantle and the Hon. Mr. S. P. O'Donnell held the office of Finance Member.

2. *Rules of Executive Business.*—The first business that was considered by the Governor (Sir Harcourt Butler) at a meeting of the whole Government was the adoption of what were called 'Rules of Executive Business'. 'Model Rules' had been received from Delhi with liberty to the Governor to accept them as they were or with modifications. My colleague and I were at once struck by a few features of them. They contemplated for the Ministers a position different from and as we thought, inferior to that of members of the Executive Council. And they throughout provided that the Governor would act with each Minister separately, not with both jointly. My colleague and I succeeded in getting the 'Model Rules' amended to this extent, that the position of all the members of the Government would be equal and similar in their relations with the Governor on the one side and secretaries to Government and heads of departments and officers generally on the other and in the matter of obtaining papers and information relating to departments other than their own, and secondly, that the Ministers would be jointly responsible for all acts done in the transferred departments. In respect of the latter we were first met by the Governor with the objection that this was not contemplated by the Government of India Act but his Excellency was satisfied on a perusal of the Joint Select Committee's report that their joint responsibility should be recognized. The Rules as amended were still defective from the point of view of Ministers and also, in my opinion, not wholly in conformity with the Act or perhaps even the Instrument of Instructions to the Governor. The present Governor thought to modify them to the greater prejudice of Ministers but listened to a protest and did not carry out the suggestion at least while he acted with his late Ministers.

Dyarchy.

3. At the very outset Sir Harcourt Butler avowed publicly and privately his intention to conduct his Government as an unitary Government. He had been most strongly opposed to the dyarchical system, and held the firm conviction that it would not and could not work smoothly and satisfactorily.

His view not having prevailed, he said he would in actual working act to the farthest extent the Act permitted as if there were not a Government divided into two parts but an unitary Government, that he would observe no distinction between one set of colleagues and subjects and the other. It was due to this that Ministers did not press beyond a certain point their suggestions of larger amendments in the Rules of Executive Business as they would have emphasized the dyarchical nature of the Government. The good-will of the Governor was of supreme importance to them every moment of their existence as his colleagues in view of the large discretionary powers with which he was endowed and of the amount of business they had with reserved departments. Besides, the power rested with the Governor himself to settle those Rules finally. The same intentions and determination which the Governor avowed, were stated with equal heartiness and emphasis by his principal colleague Sir Ludovic Porter, Finance Member and Vice-President of the Executive Council. Nothing was left that could be desired in their openness and cordiality and their spirit of helpfulness, and as I stated publicly at the time the Ministers felt that they had an ideal chief and an ideal colleague to act with and that it required an effort of the mind to remember that they were part of a dyarchical Government.

4. It was a little later that they discovered that while meetings of the whole Government were being held on the Mondays, supplemented not infrequently by one or more additional meetings on other days of the week, and while no separate meetings of the Governor with his Ministers were provided for, meetings of the Executive Council were being held on the Thursdays. I then asked the Governor about this and suggested that either these might be abandoned or he might also meet his two Ministers together every week, but was met by the reply that as long as the Act stood as it did he had no option but to hold meetings of the Executive Council, and that he saw no necessity for weekly meetings of the Governor and the two Ministers: he would call them together whenever the need was apparent. It was sometime later still that the Ministers found that contrary to the expectation created in their mind they were *not* being taken into confidence on *all* subjects. The first important matter kept from them, according to their information, was a reference from and a memorandum prepared for and evidence given before the Military Requirements Committee of 1921. In the same year differences arose between the Governor in Council and the Ministers over the Oudh Rent Bill, the latter's view not prevailing, and over the prosecutions instituted under the Criminal Law Amendment Act, Part II. In the following year they were neither consulted nor informed about the reference from the Government of India on the question of the Arms Rules. They first read of it when the newspapers reported the evidence given on behalf of the Governor in Council by a deputy secretary to the local Government.

5. The Ministers discovered, too, that decisions reached at meetings of the whole Government were not carried into effect in all cases, that sometimes they were modified or rescinded either by the Governor in Council or by the Governor alone without the knowledge of the Ministers, that they were taken into confidence and consulted at certain stages of a subject but dropped out (again, without their knowledge) at later stages, that sometimes they were neither consulted nor informed. They were reminded, too, on occasions that the Government was not unitary but dyarchical, that however the Governor

might be anxious to conduct the Government as one whole it was not in his power to override the provisions of the Act. While in the beginning and for some considerable time Ministers could rely upon the Governor supporting them in cases of disagreement between themselves and the officers of their departments, they had not that assurance in their second year of office and on several occasions resignation as a protest came well within the range of probabilities.

6. In a word, the whole spirit of the Government underwent a disagreeable transformation. The system had worked well just in the measure in which 'dyarchy' was departed from, while misunderstandings, differences and friction became only too frequent after 'dyarchy' came to be a fixed idea in the Governor's mind and to be observed. My colleague and I could not resist the feeling on several occasions in 1922, that if we had been cordially welcomed into the Government in the first year we were in the second year only being tolerated. If still we stayed on and endeavoured to do our duty to the best of our ability and opportunities, we did so only in the conviction that we ought not to desert our posts as long as we retained the confidence of the Legislative Council and were not finally overruled by the Governor in our own departments on any material question of principle and policy. Besides, Pandit Jagat Narayan had on hand the District Board's Bill, to which both he and I and our supporters in the Council attached great importance as a measure which for the first time would make local self-government a reality in the rural areas of the United Provinces and we were desirous of seeing it placed on the statute book. The varying attitude of the Governor towards this very measure—which in reality we inherited from himself as Lieutenant-Governor—at successive stages of its progress through the Legislative Council, and the difficulties we had to surmount on this account illustrated quite well the embarrassing and thankless position of Ministers in the present system if they had not the genuine and unqualified support of the Governor, who is not a constitutional governor but has an abundance of power reserved to him by the Act.

7. I have said that there were weekly meetings of the whole Government and not infrequently more meetings than one in the space of one week. I should add that this was how we began. Such meetings gradually became less frequent until at times we had not more than one in the month or even one in a couple of months or more. 'We began this Government with a 'profusion of *weekly* Cabinets: it has ended in *quarterly* meetings,' said Sir William Harcourt of Lord Rosebery's Government. Very much the same can be said of the Government of the United Provinces. With the advent of a new Governor another change came over the situation. Sir William Marris stated at his first meeting that he had held meetings of the whole Government in Assam because he had inherited the system from his predecessor and that he would hold them in the United Provinces because he found himself in a similar position here. During the four months and a half that Pandit Jagat Narayan and I had the honour of being his colleagues we saw that no subject of any great consequence was or was to be considered at such meetings; that it was and was to be 'dyarchy' all over and much more than the Joint Select Committee's report showed that they had in mind. His Excellency also expressed surprise at the employment of the formula 'the Governor acting with his Ministers' and at the recognition of the joint responsibility of Ministers, as well as at the circulation to them of papers relating to the sphere of the Governor in Council.

It is as well to quote here from the Joint Select Committee's (second) report to make it clear that it was their firm intention that the responsibility of Ministers should be collective. They said:

'.....The Committee think it important that when the decision is left to the ministerial portion of the Government the corporate responsibility of Minister should not be obscured. They do not intend to imply that, in their opinion, in every case in which an order is passed in a transferred department the order should receive the approval of all the ministers; such a procedure would obviously militate against the expeditious disposal of business, and against the accepted canons of departmental responsibility. But in cases which are of sufficient importance to have called for discussion by the whole Government, they are clearly of opinion that the final decision should be that of one or the other portion of the Government as a whole.'

But it should be added that in the Act itself I have not been able to find anything on this point.

8. *Governor and Ministers.*—Section 52 (3) of the Government of India Act lays down that 'in relation to transferred subjects the Governor *shall* be guided by the advice of his Ministers, unless he sees sufficient cause to dissent from their opinion, in which case he may require action to be taken otherwise than in accordance with that advice'. (My italics.) The reservation may be said to have been annotated, but in fact has also been enlarged, by the Instrument of Instructions to the Governor: *vide* paragraphs 6, 7 (3) and (4). The language of these instructions is on the face of it unexceptionable, but is very general and this very generality may be used as a Governor's justification for such interference with Ministers as may go beyond what was contemplated by section 52 (3) of the Act and may in fact be embarrassing to them in their relations with the Legislative Council to which they are responsible for all their acts and omissions. It is fair to assume that the provision that Ministers shall be so responsible was not made for nothing. It is only persons who have succeeded (or will succeed within six months) in getting themselves elected to the Legislative Council who can be appointed Ministers, their salaries are votable by the Council, and they cannot hold office if they are not able to get their budgets passed by and to receive general support from the Council. In the circumstances it follows to my mind that in the day-to-day administration they should be more independent of the Governor's authority than members of the Executive Council who hold office on a different tenure. It is significant that there is no provision in the Act regarding the latter similar to that which has been quoted above relating to Ministers. The Joint Select Committee said in their report on the Government of India Bill:

'It will also be for him (the Governor) to help with sympathy and courage the popular side of his government in their new responsibilities. He should never hesitate to point out to the Ministers what he thinks is the right course or to warn them if he thinks they are taking the wrong course. But if, after hearing all the arguments, Ministers should decide not to adopt his advice, then in the opinion of the Committee, the Governor should ordinarily allow Ministers to have their way, fixing the responsibility upon them, even if it may subsequently be necessary for him to veto any particular piece of legislation. It is not possible but that in India, as in all other countries, mistakes will be made by Ministers, acting with the approval of a majority of the Legislative Council, but there is no way of learning except through experience and by the realization of responsibility'.

Where in the opinion of the Governor a Minister acts unreasonably and to the detriment of the interests specially committed to his Excellency's charge by the

Instrument of Instructions, where according to the information in his possession a Minister acts contrary to the views and wishes of his master the Legislative Council and where he is not amenable to the Governor's good advice, he can be asked to resign or even dismissed as he holds office during the Governor's pleasure. But he should, while he is deemed fit to hold office, be master in his own household jointly with his colleague or colleagues in the administration of the transferred subjects. This rightful position of his has not been secured to him.

9. From all that I have observed and experienced I cannot resist the conclusion that the present Act and Rules have endowed the Governors of provinces with quite excessive power and discretion. They are not constitutional governors as in the dominions and yet the Legislative Councils are forbidden to criticize them and their acts and omissions as if they were such, as if they had no personal responsibility for what their Governments do or fail to do, as if they always acted upon the advice of responsible Ministers. It is my conviction that under the present dispensation the manner in which the system works in a province is almost entirely what its Governor makes it. In saying this I am not oblivious of the situation in two of the provinces. But there the Governor's position is quite clear and everyone can tell whether and to what extent they are responsible for the situation. I am persuaded that those cases do not affect the correctness of my statement.

10. *Ministers and the Government of India.*—Section 45-A (3 of the Act states that the Governor-General in Council may not exercise his powers of superintendence, direction and control in respect of transferred subjects except as provided by rules made under the Act in this behalf, but it also states that he 'shall be the sole judge as to whether the purpose of the exercise of such powers in any particular case comes within the purposes so specified.' The distinction between the reserved and transferred subjects in the matter of the Government of India's control is also emphasized in paragraph 3 of the Instrument of Instructions to the Governor. I do believe that the amount of control exercised or sought to be exercised by the Government of India and the Secretary of State—here and now it is immaterial for my purpose which of the two outside authorities exercises it—has been less in the transferred than in the reserved departments whether in matters of legislation or administration. But my complaint is against the existence of that power or its exercise at all except where a Governor acting with his Ministers has exceeded his own legal powers or so clearly abused them as to necessitate the intervention of higher authority to prevent grave injustice. I can, if called upon to do so, cite instances within my knowledge of interference or attempted interference by Delhi and Simla or by Whitehall where I was and am convinced there should have been none.

The Rules under this head appear to me to call for revision, and I think, too, the language of the relevant sections of the Act itself.

THE FINANCE DEPARTMENT.

11. Section 45A (2) 3 provides for the constitution, by Rules under the Act, of a Finance department in any province and for the regulation, also by Rules, of the functions of that department. It is noteworthy that hereby this one department is distinguished from all other departments of the local Governments. The Joint Select Committee did not accept the Government

of India's proposal in behalf ' a divided purse ' in the provinces. This means that finance was to be treated as a subject common to both sides of the Government. But the Rules made under the Act have converted it into a reserved department, in fact though it may or may not be in name. Rule 36 (1) of the Devolution Rules lays down that the Finance department ' shall be controlled by a member of the Executive Council.' I have throughout contended that as the department is common to the whole Government it should have been left to the discretion of the Governor which of his colleagues he would place in charge of the department. I have never been able to convince myself of the justification of Rule 36 (1) as it stands. It is a reflection on Ministers and it gives an unfair initial advantage to the Governor in Council and reserved subjects over the Ministers and transferred subjects. Nor is the objection only theoretical and sentimental. Experience inside the Government on the transferred side satisfied me that the Rule operated to the disadvantage of Ministers.

12. Rule 36 (2) and (3) may be cited as showing that the authors of the Rules were apparently struck by the possibility of the need of special relief to Ministers against the effects of Rule 36(1). ' If the Ministers so desire, a joint secretary appointed by the Governor after consultation with the Ministers ' ' shall be associated ' with the finance secretary. [The appointment even of such an officer in such circumstances is to be by the Governor, not by the Ministers themselves. They are only to be consulted.] The joint secretary's duty is defined in Rule 36 (3). But what is to be his relation to the secretary ? Was it intended that his authority should be same as that of the latter, each having to do with a different side of the Government and the joint secretary noting direct to the Finance Member and the Ministers ? Can friction be avoided between the secretary and his (in all probability unwanted) ' joint ' in such an arrangement ? If on the other hand the secretary is to be the chief of the ' joint ' what special advantage will accrue to the Ministers from his existence ? It is indisputable that the Finance Member would be the chief of both. But he is a part of the Governor in Council and has charge of several reserved subjects and a joint responsibility for all reserved subjects and none for the transferred. Once there is a joint secretray the secretary will also feel a special responsibility for the reserved subjects. The ' joint secretary ' is in the circumstances unlikely to be a real utility while the friction referred to above is more than likely. It is no wonder, therefore, that in no province is there a joint secretary.

13. My colleague and I were asked in January 1921 whether we wanted such an one ; the inquiry, which was made orally and informally by the Finance Member, being accompanied by an assurance that both he and His Excellency the Governor were in reality interested much more in the transferred or development subjects than in the reserved and we might be certain that they would willingly let us have every available rupee for our purposes. The Hon. Mr. L. C. (as he then was) Porter added that it was a pity that subjects should have been divided into reserved and transferred groups ; that neither he nor His Excellency was a believer in dyarchy and that the interests of each would be the interests of all. As a member of the finance committee of the old Legislative Council I had opposed this Rule 36 in conjunction with one or more of my non-official colleagues, and Pandit Jagat Narayan and I had no difficulty in agreeing to do without the doubtful blessing of this ' joint secretary ", particularly in view of the statement of Sir Ludovic Porter. At least

wanted to gain experience before asking for one. A little later the Finance Member and the finance secretary showed an anxiety to create the post provided a particular non official M. L. C. could be induced to accept it. As he declined the invitation the matter was dropped. When, still later, they asked for a deputy secretary in view of heavy work and I suggested that instead of a deputy a joint secretary might be appointed as contemplated by Rule 36 (2), both of them took my proposal with ill-grace and showed by their language and attitude that they intensely disliked it. I did not care to press the proposal as in fact I was never enamoured of this provision and the attitude of the two persons upon whose support and good-will any joint secretary must necessarily depend for the success of his work was positively discouraging. It should not be thought that our omission to press for the appointment was an expression of complete satisfaction with the Finance department from the point of view of the interests of transferred subjects.

14. Rules 38 to 45 may be read as showing the wide scope and vast powers of the Finance department. I point this out not as an objection but to emphasize its importance and all-pervading nature. I understand that, broadly speaking, it performs here the function of what in England is known as 'treasury control' and, without committing myself to details, agree that such control is wholesome and necessary. But the matter assumes a different significance when the Government is not unitary and one-half of its members are by rule declared ineligible for charge of the subject. In actual administration the drawback of this arrangement was felt by the Ministers in the United Provinces and I for one must reiterate my strong protest against Rule 36.

15. There are a few more points to urge before I pass from this part of the subject. During a period of financial stringency such as nearly every Government in India has been passing through, it is natural that a vigilant eye is kept upon expenditure and it is right that new expenditure should be restricted to the irreducible minimum compatible with the interests of the province. I do not complain that my colleague and I were so restricted. Our ready willingness to appreciate the requirements of the financial situation and to co-operate with the Finance department was acknowledged by both Sir Ludovic Porter and the Hon. Mr. O'Donnell. I could wish it were in my power heartily to reciprocate the compliment without qualification except for a part of the first year. If my colleague and I ultimately gained our points in part, it was more than once at the point of resignation. 'The growth of education' has been laid down as one of the matters of investigation for the statutory commission provided for by section 84A—see (2) of that section—and yet we had considerable difficulty in averting a large reduction of the allotment for primary education, first in 1922 and still more in 1923. I was not in charge of the subject but I understand that a substantial reduction *was* made in the former year. The cut that was proposed in the latter year was to be in addition to that already made. A plausible case may be attempted to be made out for the Governor in Council that it is upon the transferred departments that more new expenditure has been incurred than upon the reserved. But it should be remembered that the latter are fully developed and, speaking in general terms and not excluding the necessity that would occur from time to time of new expenditure even upon them, I am prepared to say in respect of those departments

that there is greater scope for economy and retrenchment than need for increase of expenditure. Therefore there does not appear to be any very great merit in a local Government having allowed more new expenditure upon the imperfectly developed beneficial services under the pressure of the Ministers inside and the Legislative Councils outside. Even in the pre-reform years there had latterly to be more increase of expenditure on some of the latter than on some of the present reserved subjects and it would have had to go on even if there had been no reforms and ministers.

16. Not a pie of new expenditure can be incurred by the Ministers without the approval of the Finance Member. Have they been afforded adequate opportunities of satisfying themselves that no avoidable new expenditure has been sanctioned in the reserved half of the Government? The answer is in the negative. I ventured to suggest to Sir Harcourt Butler in 1922 that every proposal of new expenditure in any department exceeding amounts that his Excellency might fix for recurring and non-recurring expenditure, might be circulated to all the four members of the Government and where there was disagreement of opinion, might be considered at a meeting of the whole Government. He did not agree even to the supply of information to the Ministers! And oftener than not, the first time we knew of the new financial proposals and decisions of the Governor in Council during the financial year was when supplementary estimates were actually presented to the Legislative Council. Even in a department for which I was responsible to that body it happened once that the Secretary of State made a payment to a retired officer without any reference to the local Government and asked the latter to make good the amount to him. It happened to be a case in which the self-same claim submitted by that officer before leaving India had been disallowed by the local Government, the Minister, the Finance Member and the Governor concurring in the decision. The Secretary of State's communication was received by the Finance department and the first time I as the Minister concerned got to know anything of it was when I saw a supplementary estimate placed before the Council and then made inquiry of that department. [The Council rejected the demand and the matter was still the subject of animated co respondence between the Secretary of State and the local Government at the time of my resignation in May 1923.]

Another incongruity—amounting in my opinion to an absurdity and an insult to the Ministers. A few days before my resignation I received 'for information' a printed copy of a circular letter already issued to *all* heads—departments—*i.e.*, including those relating to the transferred subjectsb of the '*Governor in Council*' directing them not to send up proposals of new expenditure in view of the financial position of the Government. In the transferred departments such proposals would be addressed to the Ministers for administrative sanction and if the latter accorded it they would then ask the secretary seized of the subject to submit the case to the Financy department. Therefore, the order of the Governor in Council amounted to this, that the reserved side of the Government forbade the officers serving in the transferred departments to submit proposals to their chiefs the Ministers. And the Governor in Council issued that order without a word of consultation with the Ministers and without so much as the courtesy of informing them of his intention to do so. We were only favoured with *post facto*

information just in the nature of a press communique that an editor is used to. As our resignations had already been accepted on another matter which itself illustrated the position of Ministers under the present dispensation, all that had to be and was done, was to protest against the unwarranted action of the Governor in Council.

17. One effect of the transfer to Ministers of responsibility for some of the subjects administered by a local Government, has been a new disinclination to spend upon matters which previously were probably, and were certainly believed by non-officials to be, objects of special solicitude on the part of the Government. I have *roads* particularly in mind. In 1922 a cut of Rs. 2 lakhs was made in the provision for provincial roads. On the urgent representation of the Finance Member I acquiesced in the cut on the understanding, firstly, that it would be restored in the following year, and secondly, that he would agree during the year to additional provision by means of a supplementary estimate if the need arose therefor. It should here be stated that the cost of construction as well as maintenance has risen in the last few years, that the department had fallen behind with repairs owing to insufficiency of funds, and that more not less money was required even for repairs, not to speak of the construction of new metalled roads. Later in the year the president of the Board of Communications—Mr. A. W. Pim, C.I.E., I.C.S., commissioner of Allahabad and a former finance secretary—urged upon the Government either the provision of funds or the abolition of the Board and at the same time suggested the imposition of a tax on motor vehicles, the proceeds of which might be made over to the Board for allotment for roads. The suggestion was readily accepted and a bill was drafted. The Finance Member however argued that he would not by law earmark the proceeds for a specific purpose as that would be unsound in principle but the Government would decide administratively to apply an amount equivalent to the net proceeds of the tax to the construction and maintenance of roads both provincial and local. On this distinct understanding Pandit Jagat Narayan and I agreed to the measure, he being in charge of Local Self-Government and I of Public Works. Soon after, a new Governor and a new Finance Member took charge and they were unwilling to implement the undertaking. Pandit Jagat Narayan had to insist upon it as a pledge had been given to the Legislative Council with the approval of the late Finance Member that district boards would have a part of the proceeds of such tax and the Governor and the Finance Member reluctantly yielded, the former on the ground that the pledge must be respected although he was of opinion that it ought never to have been given and the latter under pressure of the Governor. And they agreed as to my share of the affair after more difficult persuasion and with greater unwillingness still, only after I declined to vote for the Bill in the Legislative Council if they did not carry out the undertaking given by their predecessors, which was the prime consideration with me in having consented to the Bill. But after my resignation the latter part of the understanding was not respected to the best of my knowledge and belief and according to my reading of a statement made by the Finance Member in the Legislative Council. Neither was the reduction of Rs. 2 akhs made in 1922 restored in the following year. Nor are district boards receiving as much financial assistance as they used to do for communications. Yet we are being told in certain quarters that roads have deteriorated since Ministers

took charge of them at headquarters and district boards were placed under non-official chairmen, the latter having been done for the first time less than a year and a half ago!

18. Many proposals of Ministers necessarily go before the Finance Committee. But neither of them was nominated a member of the Committee in 1921. Nor were they consulted about the nominations. A complaint having been made, the Finance Member undertook that one of them should be nominated in the following year, and that both of them should be consulted about the other nomination. Neither of these things was however done in 1922. And the Ministers were equally ignored in 1923 by the new Governor and the new Finance Member. But Finance is a department common to the whole Government. Worse still. No officer serving in the transferred departments was in the beginning informed of meetings of the Committee before which proposals relating to them were to be placed for consideration, and the Finance Member or the finance secretary or both actually joined non-official critics in the Committee (after they had previously approved of the proposals, which was an antecedent condition of their inclusion in the agenda, in turning them down. This was only known to the Ministers subsequently when the Finance department informed them of the fate of some of those proposals. It was thereafter, and in compliance with request, that the printed minutes of the proceedings were made available and from them that the attitude adopted by the Finance Member and the finance secretary could be gathered. A protest had to be made and it was considered at a meeting of the Government and there followed the concession that secretaries and heads of departments would be informed and allowed to attend meetings and plead for their proposals.

I have no hesitation in saying that a system with such features as I have attempted faithfully to describe in the foregoing paragraphs, which is capable of being and liable to be worked as it has been, which so prejudices one-half of the Government and the important causes for which it stands, stands self-condemned, and needs radically to be altered without avoidable delay.

Legislative.

19. *The Legislative Department and the Legislative Council.*—I do not find these included in the list of reserved or of transferred subjects as I do not find Finance either. Whether the omission was intentional or accidental it is right that they should be treated as being common to the whole Government as Finance was intended to be. In practice, however, they have been "reserved." The department has been entrusted to the control of the Finance Member and he has been the leader of the Council ever since he ceased to be the senior member and vice-president of the Executive Council. It is the Governor's prerogative to decide when and where he would summon the Council to meet. But he takes the decision in consultation with the Finance Member. I do not know whether the other member of the Executive Council is admitted into confidence and consultation. I know that the Ministers were not after the first year. As in other matters so here they were treated as equal members of one whole in the beginning and for some time after. But for no known reason they were afterwards kept or left in the outer courtyard

and they could only gather knowledge along with non-official members when summons to meetings were issued or an announcement appeared in the press. With this difference, that as regards the days allotted to official business they had to be asked by the deputy secretary whether there was any business of theirs for which time had to be given. Representations and remonstrances against the departure from earlier practice equally proved unavailing both in the time of the late and the present Governor.

20. During nearly the whole of the first year it was the practice for cases relating to Council business to be circulated and the attitude to be taken by the Government towards non-official bills and resolutions to be considered and decided by the whole Government at joint meetings. And as often as not, it used also to be decided there which, if any, member of the Government other than the member in charge should speak in support of the Government position and occasionally a member other than the member in charge was actually constituted the spokesman of the Government. No dyarchical distinction was ever observed during that period of confidence and good-will. All which has since been changed for reasons not known to Pandit Jagat Narayan or me. The change went so far that on one occasion so important as to be critical to Ministers the Finance Member sprung a surprise upon them by actually speaking in open Council against the position taken up by them—a position to which the Governor and he had both assented earlier. And in connection with the same measure, to which reference was made in an earlier part of this memorandum, there was active canvassing against the position taken by the Ministers with the approval of both the Governor and the Finance Member; by the other member of the Executive Council and the secretary to Government who was and is acting as the Government whip, who was, too, and is still a secretary in departments under the control of the Ministers themselves. The canvassing was active and all but technically public and I cannot think, could have been unknown to the Governor and the Finance Member. It was a measure on which it was known that the Ministers staked their official existence and to ensure the passage of which they remained in office notwithstanding several provocations to quit. If they succeeded in the end it was by dint of negotiation and of compromise effected in the face of the exertion of effort and influence to the contrary by the said member of the Executive Council and the said secretary to the Government. It was possibly due to the encouragement afforded by a knowledge of the real attitude of the Governor in Council that another secretary to Government—this time the secretary in charge of the very department to which the Bill related—moved an amendment which the Minister in charge had instantly to repudiate and disown and which subsequently the said secretary withdrew '*at the request* of the Hon. Minister' as he took care to tell the Council.

21. Before leaving this part of the subject I should like to bring a few more points to the notice of the Committee. The Governor, or the Governor in Council, or the executive officers of divisions and districts serving under him, ought scrupulously to refrain from any intervention, howsoever indirect, in elections to the Council. No official ought to exert any influence in favour of or against any candidate. Such influence is a 'corrupt practice' in election

terminology. While it is objectionable on general grounds it may also be unfair to the Ministers. Some landlords—I am glad to acknowledge, not all—were not pleased with the late Ministers in the United Provinces. But the Governor in Council was pro-landlord including in this term those who were hostile to the Ministers. That in elections landlord canditates can reckon upon indirect official support, is a common belief among the people. In one case I had unexpected written evidence in support of this belief and took up the matter with the Governor. It is intolerable that certain persons having been selected as Ministers, officers on the reserved side should afterwards be asked or encouraged or permitted to exert influence in favour of anti-ministerial candidates.

22. The Governor should not have the power to disallow questions or resolutions or motions of adjournment. What categories of cases are beyond the province of the Council having been laid down by Rule, it should be entirely the business of the President to admit or disallow questions or motions. In exercising his power in this regard the Governor as the head of the Executive Government is liable to be influenced by extraneous considerations which ought not to be a factor in determining their admissibility. Besides, no authority external to the Legislature should have power to intervene in its business.

23. Either the Governor should be a 'constitutional governor' or he should not by Rule be protected from criticism in the Council. At present his position in relation to the Council is one of power unaccompanied by responsibility and untempered by the knowledge that the manner of its exercise can form the subject of Council criticism. It is a position more privileged than that of any dominion Governor and of the King himself in Britain.

24. *Council Secretaries.*—Council Secretaries would undoubtedly have proved highly useful and even necessary to the members of the Government if the permanent secretaries and the heads of important departments were not also in the Legislative Council. The latter's work should be in their offices and in the case of heads of departments, in visits of inspection as well. This work has suffered from the obligation imposed upon them of constant attendance at Council meetings. Even when the member in charge of a subject is ready to dispense with it except when it may be essential, the leader of the Council is not as he requires their votes. It is true that the nominated official members form a small minority of the whole Council but as non-official members are rarely present in full strength the official votes not infrequently determine the result of a division. This ought not to be. The freedom of vote which according to the Joint Select Committee's report should be theirs, is seldom accorded to them in fact and the voting is ordinarily by mandate. Even on a question on which the Governor made a public declaration that the Council would be a free agent in determining it the Government whip was more than ordinarily active—among other things he addressed a questionable communication to members believed to be of a docile class, and the Governor in Council supported it when questioned in the Legislative Council—and official members were forbidden even to abstain from voting. If the Ministers were of one opinion and the Governor in Council of another,

the nominated official members had all to vote with the latter including those serving in the Ministers' departments; yes, once even when the subject happened to be a transferred one. I hope it is superfluous to say that such things do not promote discipline and do not enhance the position of the Ministers. At least a majority of the nominated official members would be glad to be excused from being members of the Council as this interferes with their own work and necessitates late hours night after night to get through 'those files to which there is never an end' as Lord Carmichael plaintively said. Nor will the loss to the members of the Government be appreciable—assuming that care is taken to appoint at least moderately competent men—as permanent officials as a class do not show a ready aptitude for public speech and debate and generally say either too much or too little to win the support of the Council. The leader of the Council having complained that one or more Government defeats were due to the speeches of heads of departments, Sir Harcourt Butler once ordered that no head of a department should speak in the Council except when expressly asked by his Honourable Member to do so. When required by a member of the Government the head of a department can be asked to be within reach for consultation and advice. If I am not misinformed I believe some such arrangement exists in Parliament. My conclusion is that there should be no nominated official members with the exception of the Government Advocate (the legal adviser should be he, not the Legal Remembrancer) and there should be as many Council Secretaries as there are members of Government, selected from among the elected members to assist and relieve them in the Legislative Council. This will carry with it the further advantage of providing a supply of trained men to be later selected as members of the Government.

25. *Standing Committee.*—I have been opposed, and so were the other members of the late Government except Pandit Jagat Narayan partially, to standing committees of the Legislative Council except for the Finance, Public Accounts and Publicity committees. We have had in the United Provinces for years before the new constitution came into force, a number of boards to advise and assist the Government in important matters. Their personnel is made up in part of official and non-official members nominated by the Government and in part of non-official members elected by the Legislative Council and by appropriate outside bodies such as chambers of commerce and landholders' associations. The utility of these boards has been amply proved and there did not appear to be a case for doing away with them in favour of committees whose personnel would have to be limited to M. L. C.'s and which, when their opinion is not accepted, are sure to come into conflict with the Government or the individual member of the Government immediately concerned. It is highly improbable that standing committees of the Council with a majority of elected members will be content with the position of advisory bodies strictly so called. In nominating members to the Finance, Public Accounts and Publicity committees it is fair that the Governor should consult not only his 'reserved' (as he does at present) but also his 'transferred' colleagues as the latter are equally concerned in their work.

26. *Nomination of Members to the Legislative Council.*—In nominating members to the Legislative Council the Governor should consult not only

one or both of the members of the Executive Council, as he is in the habit of doing, but his Ministers as well. I would emphasize a point previously adverted to, that the point of view and the opinion of the two are not necessarily, and in fact not always, identical or similar, and as Ministers are the members of the Government vastly more dependent upon the legislative Council than the others are or need be, it is not fair that they should be ignored and sometimes the voting strength against them increased by the manner in which the Governor exercises his right of nomination. This in fact is what has happened in the United Provinces.

27. *Representation in the Legislative Council.*—Rural constituencies return landlords to the Council much more than any other class of people. But in existing circumstances they cannot be accepted as the spokesmen or guardians of the interests of their tenants and of their cultivators generally. The law of landlord and tenant is still defective to a degree and there is no proper legislative recognition of the legitimate rights of tenants. The discussions and divisions on the Oudh Rent Bill of 1921 showed that it was to the educated middle class that the tenants had to look for the assertion of their rights more than to the landlords or even to the Government. The revision of the Agra Tenancy Act—a question that the Government have had under consideration during the last fourteen years—having once more been referred to a committee, the beginnings of landlord agitation against amendments calculated to improve the legal position of tenants are already visible. The experience of 1921 and of other occasions when agrarian questions came before the Council was that until the position of the tenants was secured by law against unfair enhancements and evictions and until by the wider diffusion of education and a fuller understanding of the power of the vote by repeated exercise of the right they could intelligently and adequately safeguard their own interests, these would be best served and promoted by a certain increase of the urban representation now in force. It is not with the motive of securing that the towns shall prosper at the expense of the villages that this is proposed. On the contrary I have repeatedly protested against the interests of the many from whom the bulk of Government revenue is derived being subordinated to those of the minority of town-dwellers. My proposal is put forward chiefly in the interests of the rural millions. The ratio of urban to rural representation need not be permanently fixed. It can be varied from time to time so as to increase the latter as the masses are better fitted to benefit by the exercise of the right. This was my contention before the Franchise Committee of 1918. What I have observed since then has strengthened that opinion in me. And I therefore submit the proposal again. I would somewhat increase the number of seats for urban areas in the non-Moslem and Moslem electorates without curtailing the number allotted to rural areas.

28. While the landlords have secured the majority of seats allotted to rural areas, as they were expected to do and as they will continue to do at least for years to come, they have further been accorded special representation by means of four members elected by the British Indian Association of Oudh and two by zemindars of the province of Agra who pay land revenue of Rs. 5,000 or more. I do not now suggest that this special representation should be withdrawn. My immediate point is that it requires readjustment

in fairness to the zemindars of the thirty-six districts of the province of Agra who are far more numerous than the members of the British Indian Association of Oudh and also to those zemindars of Oudh who, not being talukdars are not eligible to be members of the said Association. All things considered, it strikes me that it will be eminently fair to redistribute the six seats by giving three to the zemindars of Agra, two to the British Indian Association and one to Oudh zemindars who are not talukdars.

29. I would increase the number of members for the depressed classes from one to three and allot a seat to factory labourers. I would secure this as well as the additional urban representation by an increase of the numerical strength of the Council and not by taking away from the representation of the community generally or of any special interest. In point of fact no such increase will be necessary if my earlier proposal to do away with nominated official members as a body should be accepted.

30. As regards the powers of Provincial Legislative Councils, I consider the provision requiring the previous sanction of the Governor-General—section 80A (3)—to the consideration of certain classes of legislation to be a survival that should be done without, and the new provision relating to the reservation of Bills for the assent of the Governor-General—section 81A—to be unnecessary. I would retain only so much of it as empowers the Governor or the Governor-General to return a Bill for further consideration in whole or in part. This will be useful as it is conceivable that in its absence the entire labour bestowed upon the consideration of an important and useful measure of legislation may prove to have been wasted and the whole Bill destroyed by its veto by the Governor or the Governor-General. For the rest the power of veto is adequate to all purposes.

MINISTERS AND SERVICES.

31. Under section 45A (2) (*iv*) rules may be made under the Act to 'provide for regulating the exercise of the authority vested in the local Government of a province over members of the public services therein.' As 'no special provision is made as to the authority by whom the rules are to be made'—section 129A (1)—it must follow that 'the rules shall be made by the Governor-General in Council, with the sanction of the Secretary of State in Council, and shall not be subject to repeal or alteration by the Indian legislature or by any local legislature.' Sub-section (3) of the same section provides for Parliamentary sanction for the rules. Local Governments themselves may be consulted or informed but they have no power in respect of the rules. Actually, I believe the Government of the United Provinces were only informed and not consulted. Rule 10 of the Devolution Rules says that the 'authority vested in the local Government over officers of the public services employed in a Governor's province shall be exercised.....in the case of officers serving in a department dealing with transferred subjects by the Governor acting with the Minister in charge of the department' subject to two provisos. In the first place the contrast between 'Governor in Council' and 'Governor acting with the Minister in charge' will be noted: the Rule does not speak of the 'Governor acting with Ministers.' In the second place I have to bring to the notice of this Committee that there is another rule which lays down that any change in the conditions of recruitment and service of officers of provincial services can only be made by the Governor in Council and not by the

Governor and Ministers even when those services relate to transferred subjects. This rule was first shown to us in the summer of 1921 at a meeting of the Government as a rule drawn up by the Government of India and submitted for the sanction of the Secretary of State and Parliament. Local Governments were informed that the draft rule should be considered to be in force as if it had already received sanction. My colleague and I immediately protested against it and I am glad to say that the Governor in Council endorsed our opinion. And a telegram was forthwith sent to the Government of India requesting them to cable to the Secretary of State our protest supported by the Governor in Council. Nothing more was heard of the rule for a long time and we were under the impression that it had been modified. The impression was strengthened by the circumstance that the Fundamental Rules, which were received by the local Government about six months later, stated the position correctly from our point of view. But towards the end of 1922 I was again confronted with it. The question arose whether officers of the United Provinces Women's Educational Service should not be required to pass an examination in the vernacular. The rules then in force did not require this of them. But the director of public instruction and I were of opinion that they should. At this stage the secretary objected that the rule could only be amended by the Governor in Council as power was not given to Ministers in this behalf even in the case of services working in the transferred departments. Further inquiry elicited the fact that the rule as originally framed had not been altered. That is to say, our protest, supported as it was by the Governor in Council, had been unavailing. Sir William Marris agreed a couple of months later to communicate a fresh protest from us to the Government of India. Up to the date of our resignation we had no information as to the fate of that protest. This single illustration brings into striking relief the inferior position decreed to the unfortunate Ministers. Responsible to the Legislative Council as they are, equal members of the Government as they are supposed to be, they are to submit to the control, not only of the Governor, but in certain matters of the Governor in Council, in other words of their colleagues the members of the Executive Council. A careful perusal of Sections III and IV of the Functions Committee's report has failed to bring to my knowledge any justification of this invidious rule. It does not appear to me that such an arrangement can be easily defended.

32. The two provisos to Rule 10 of the Devolution Rules place the responsible Ministers on the same footing as the non-responsible members of the Executive Council notwithstanding the consideration urged by me in paragraph 8 above. The first proviso extends to officers of both the all-India and provincial services; the second is limited to the former. The provisos may work without producing friction; but they may not. It depends. We have had both experiences in the United Provinces, particularly in respect of proviso (*a*). I can conceive of no justification for proviso (*b*). The Functions Committee in paragraph 70 of their report urge such restriction of the powers of a Minister only in the case of officers of the I. M. S., 'because, owing to variations in the value of private practice in different appointments an order of transfer may seriously affect emoluments.' I do not approve of this. It is the civil assistant surgeons promoted to the position of civil surgeons who have most to complain on this score, and actually several of the abler among them have declined the promotion offered to them because they could only get

districts which did not offer much scope for private practice. However this may be, the Devolution Rules of 1920 have gone far behind the Functions Committee of 1918. If Ministers cannot be trusted even in the matter of transfers and postings, it would be simpler, more logical and more intelligible to dispense with them altogether.

33. 'A local Government shall employ such number of Indian Medical Service officers in such appointments and on such terms and conditions as may be prescribed by the Secretary of State in Council.' (Devolution Rule 12.) The officers belong to a military service; and medical administration is a transferred subject. Unlike other heads of departments the inspector-general of civil hospitals may not be appointed by the Governor except with the concurrence of the Government of India. Sir John Hewett protested against this arrangement as long ago as 1907 in the memorandum he communicated to the Royal Commission on Decentralization. This 'previous sanction' subsists even after a Minister has been made responsible for medical administration. A certain amount of authority was claimed by the Government of India in 1921 even in respect of I. M. D. officers in civil employ, officers whose salaries are votable. A lengthy correspondence ensued and when on budget day in 1922 the Minister (Pandit Jagat Narayan) went before the Council with proposals pressed upon him by Delhi and Simla they were sharply attacked by the non-official members and defeated without a division after an elaborate *apologia* by the inspector-general.

34. Rule 27(1) of the Devolution Rules and Schedule III may next receive attention. I do not think that either the Rule or the Schedule is necessary. I do not think that the Secretary of State in Council or, acting on his behalf the Governor-General in Council should reserve the powers specified therein. The control of the Legislative Council over the Ministers is an adequate and will almost always be an effective safeguard against excessive spending propensities in a Minister. In fact the Council is more watchful than either the Secretary of State or the Government of India, of expenditure upon establishments, and is particularly jealous of the creation of posts on high salaries.

35. I was satisfied as Minister that there were several superfluous posts ordinarily held by members of all-India services and a larger number the duties of which can be, and in temporary vacancies have efficiently been discharged by the more moderately paid officers of provincial services. But the local Government have no power to abolish any post or transfer it to the cadre of a provincial service, while it was never easy to get the sanction of higher authority to either proceeding. The utmost that could be done was to let a post remain in abeyance or to let an officer of the provincial service concerned officiate for a lengthened period. But I am given to understand that when it extends beyond a fixed number of months, higher sanction has to be obtained. I knew that this was so in respect of the I. C. S. and P.C.S. I have since learnt that a like rule is in force for the benefit of other all-India services including those serving in transferred departments. Acute financial stringency necessitated a regrettable restriction of beneficial expenditure in the very departments where there were costly offices to be paid for though superfluous or when they could otherwise be staffed at a smaller cost to the tax-payer. The Governor acting with his Ministers should have the power to

deal with such cases, care being taken or provision being made by law that no individual officer of an all-India service now in service shall be deprived of his rights. It should be in his power to reduce cadres, again subject to this same reservation, and the Secretary of State should not retain or use powers to prevent or discourage measures of economy in the provinces.

36. After some experience was gained I reached the two conclusions, that the chief engineer should not also be secretary to Government in his department, and that the posts of superintending engineers were not necessary. I proposed that one of the civilian secretaries to the Government—preferably the secretary in the Industries Department—should take over Buildings and Roads; that the chief engineer should be *ex-officio* deputy secretary and that he should be assisted by a deputy chief engineer, who will be of the status and receive the emoluments of a superintending engineer. The abolition of the posts of superintending engineers was to take effect after the officers who were holding them substantively had retired. The Legislative Council resolved *nem con*, official members not voting, that the posts of superintending engineers should be abolished. The whole Government virtually agreed to the aforesaid proposals. But knowing that we had not the power to give effect to them, I accepted the advice to set up a committee in the first instance. Since then many things have happened except the effectuation of my proposals which, in all probability, would have been a *fait accompli* in 1922 if the local Government had had the power.

37. There are *certain posts in departments dealing with transferred subjects which are reserved for officers serving in departments dealing with reserved subjects*. For example, there is the office of excise commissioner. It must be filled by an officer of the I. C. S. It is regarded as being the perquisite of a senior magistrate and collector and oftener than not, an officer is selected who is not thought fit for promotion to the more coveted position of commissioner of a division (although as one officer remarked, while it is easy to understand that a person may not have the qualities essential for a successful collector it is difficult to make out why any one should be deemed unfit to be a commissioner) but who may be too senior to remain a mere district officer. In other words the convenience of the Government and not the public interest is (or was) the determining factor in the selection of the head of the department. With the concurrence of the Finance Member—the able officer who is secretary both for Finance and Excise—fully agreed with us—and His Excellency the Governor it was decided towards the close of 1921 to appoint as excise commissioner the then deputy excise commissioner who was both an expert (having put in many years of service in the corresponding department in Britain) and a man of administrative capacity and was besides, a temperance reformer. He was appointed to officiate and a dispatch was prepared asking for the sanction of the Secretary of State to remove the post from the cadre of the I. C. S. and give liberty to the Governor acting with his Ministers to select which officer—I. C. S. or other—he might from time to time deem to be the best fitted therefor. At this stage the Finance Member and the secretary both went on leave and the new secretary instead of submitting to the Governor the draft dispatch approved both by Sir Ludovic Porter and me, took it upon himself to send the case to the chief secretary on the ground that the proposal affected an All-India service. This he did although the chief secretary's

chief, the Finance Member, who was in charge of General Administration as well as Appointments, had already given his consent. The chief secretary interposed every obstacle he could. The case had to go before more than one subsequent meeting of the Government. When at last the dispatch was sent in a truncated form it was returned by the Government of India with discouraging advice. In the interval the Governor moved in sympathy away from me and in the direction of the chief secretary, and the final result is that we have the *status quo ante*.

38. The co-operative department requires in its officers for the success of the movement a missionary zeal combined of course with knowledge and ability. But it has been bureaucratized like any other, and it is obligatory on the Minister to select as registrar and deputy registrar two officers 'listed' or to be 'listed' and as assistant registrars two deputy collectors. No officer of the department of agriculture or of industries, no junior assistant registrar, no non-official of proved capacity is eligible. And the department cannot be reorganized without the Minister running his head against both the I. C. S. (indirectly) and the U. P. C. S. (directly). A scheme of reorganization drawn up by me after consultation with an English friend who had been himself registrar and subsequently rose to be officiating Finance Member and in large part in agreement with his ideas, and submitted to the Governor, never left Government House until the date of my resignation. Registration is a transferred subject but the inspector-general of registration and district registrars are 'reserved' officers. 'Public health' is another transferred subject similarly situated, and my colleague did not always succeed in getting the officer he wanted to be in charge of it.

39. Commissioners and district officers have many opportunities of making themselves felt in the administration of transferred subjects. They have specific powers and are a factor to reckon within the administration of local bodies and no proposal of the former can be rejected by the Minister 'in any important matter' without the concurrence of the Governor. What is and what is not an 'important matter' is decided, not of course by the Minister but in the first instance by the secretary to Government and in the last, by the Governor himself. *Village Panchayats* are or are not as the district officer may decide. Because they are endowed with petty judicial powers an attempt was made in the beginning to treat them 'as reserved' but it was not pursued. A similar attempt was made to remove *Improvement Trusts* from the control of the Minister of Local Self-Government and for a time they were actually made over to the Finance Member. When it was pointed out that this could not be we were told that legal opinion was being or would be obtained. It was not until after a couple of months of their administration as a reserved subject that the Governor could be persuaded that the list of transferred subjects in the Devolution Rules left him no option but to restore the Trusts to the control of the Minister. At that time the chairmen of the Lucknow and Cawnpore Trusts were senior I. C. S. officers and there was reason for our thinking that they expressed dissatisfaction that some of their schemes and proposals had not received instant acceptance or acceptance without modification and that this was why the resumption was made. In my departments I had to deal with—that is to say, to bring to the notice of the Governor—

cases of attempts at interference by a commissioner and a collector in a matter pertaining to Excise (they wrote to the chief secretary against the intended transfer of an excise inspector, one of them describing it as 'immoral'); by another collector in one pertaining to co-operation, and by a third, to the P. W. D. This last was interesting: the collector ordered the district engineer (not an Indian) not to leave headquarters even on duty. There was on another occasion a matter relating to a school in which the deputy commissioner took a strong line of his own because teachers did not attend an Aman Sabha meeting called by him and were seen clad in Khaddar, and was supported by the commissioner on the ground that the district officer's authority must be upheld, but the four members of the Government were unanimous that the deputy commissioner was wrong. The Governor disagreed with all his colleagues and said he scented 'intrigue' but concluded that the case was not a suitable one for the exercise of his power of veto. Demi-official correspondence between commissioners and the chief secretary affecting Indian officers of the transferred departments was not a very rare occurrence. In one C. I. D. report I was amused to find myself described as the founder of a non-co-operation league about six weeks before I got into office.

40. I will not multiply instances. And I should further like to record that it should not be thought that they were very frequent. On the other hand there were many officers whose attitude towards the Ministers was correct and some who were cordial and helpful. And Pandit Jagat Narayan and I look back upon our association with them—and they included officers in our own as well as in the reserved departments—with pleasure and in some instances with a feeling of gratefulness. The point I set out to make is that the dyarchical constitution—including in the term both the Act and the Rules—which nobody ever regarded as ideal and which some of us supported only because it was the best we could hope for in the circumstances and as a stepping stone to something better and higher, could only be carried on if worked 'by reasonable men in a reasonable spirit' (Mr. Montagu and Lord Chelmsford) and that the experience of the last three years and a half has indubitably demonstrated that it is not always that this difficult condition is satisfied, that it has not worked well, that for its success we have perhaps to expect more of human nature than human nature is capable of yielding and that it would be wise and prudent to replace it by unitary autonomous or responsible governments in the provinces. The preamble to the Act of 1919 stated that 'the time and manner of each advance' to the 'realization of responsible government' must depend upon 'the co-operation received from those on whom new opportunities of service will be conferred, and by the extent to which it is found that confidence can be reposed in their sense of responsibility.' I affirm with confidence that Ministers have abundantly fulfilled this test and Legislative Councils, too, except in the last few months in two of the provinces, that even there the situation that exists for the time being is only a forcible though unwise demonstration of dissatisfaction with the present very defective constitution and of an eager desire for rapid progress towards self-government, and that the effectual remedy lies neither in retrogression nor in stagnation but in unflinching and courageous progress onward and upward.

41. To resume my narrative. The rules of Executive Business impose upon the secretary the duty and confer upon him the right of submitting to

the Governor cases which in his opinion were of such importance that he should see them. He should do so when in any important matter a member of the Government did not accept the opinion of a member of the Board of Revenue, the commissioner of a division or the head of a department and he could also do so when he himself was not satisfied with the decision of an H. M. The Secretary has his weekly interview with the Governor; the head of a department is seen by H. E., when requested for an interview. Both secretaries and heads of departments are appointed by the Governor after consultation with the colleague concerned. Appointments to the more important of other offices are made by the member of the Government concerned but are subject to the Governor's approval. Every matter relating to all subordinate services except variations of cadres and scales of salaries is in the hands of heads of departments. Either decisions are specifically reserved to the Governor, or they are subject to his approval, or they have to be submitted to the Governor because there is a difference between the head of a department and a member of the Government, or they are so submitted because the secretary elects to do so. It will be seen that the margin of discretion left to the Minister responsible to the Council is not dangerously wide. The system can work notwithstanding its inherent imperfections as long as the Governor is sympathetic and helpful and when the atmosphere is one of mutual trust and goodwill. Perhaps it can work, too, when a strong Governor selects a weak Minister. But do these conditions invariably exist? My experience was that it very much depended upon a secretary's good humour whether ten or ninety per cent. of cases were submitted for the Governor's approval and upon the Governor's general attitude or personal feeling towards a Minister at a given time whether he ordinarily supported or overruled him. I passed through every stage from a habitual 'the Hon. Minister is responsible and his view must prevail' and 'I must support the Hon. Minister' to being overruled in matters of varying degrees of importance and unimportance down to nominations to a library committee; ultimately prevailing in matters in which I was not prepared to be overruled only by making it clear that I would have to consider my position. A Governor and one or more colleagues not of their political persuasion and secretaries and heads of departments and other superior officers to whom every act of Indianization or provincialization or political advance means something that reduces their own opportunities, are the chief under whom, the colleagues with whom, and the agency through which Ministers have to act, at the same time fulfilling their responsibility to the Legislative Council and satisfying their constituents and countrymen. The system has not worked well; it must break down. A constitutional governor not belonging to the permanent services, a responsible cabinet of M. L. C.'s of identical ideals and sympathies with collective responsibility, and a rapid Indianization and also provincialization of the superior civil services, the rights of officers now in service being secured, can in my judgment be the only proper substitute for the present hybrid system.

42. *The Chief Secretary.*—I respectfully suggest that there is no necessity for the post of chief secretary to a local Government. There is no such functionary in the central Government. And there should no longer be in the provinces which have advanced from single-man rule to government by council, bear

at present a partial responsibility to the
sooner or later to be fully responsible. The chief secretary's functions are similar to those of any other secretary and are in the main, and ought to be completely, restricted to his own departments. The adjective however gives him a sort of superior importance and enables him on occasion to seek to intervene and assert his authority in affairs not his own but his colleagues', who have their own H. M's. to deal with. The chief secretary is a survival and has no place in the present system. If his position is assimilated to that of the other secretaries. there will be the subsidiary advantage of a financial gain to the provinces.

CONTRIBUTION TO THE CENTRAL GOVERNMENT.

43. The United Provinces has never been fairly treated by the Government of India in the matter of the financial contribution, or the provincial settlement or contract as it used to be called, before, ever since the system was inaugurated by Lord Mayo's Government in 1871. The excessive economy practised by successive Lieutenant-Governors was rewarded by the resumption of their accumulated surpluses at the time of the quinquennial revision of the contract. The standard of expenditure was very low and the progress of the people very slow. The requirements of the local Government were calculated on the basis of that standard and consequently progress could not be accelerated during the next following quinquennium. Sir Antony Macdonnell, Sir John Hewett and Sir Harcourt Butler, put up a sturdy fight for better treatment, and Sir James Meston, too, pleaded for it during the latter half of his regime. Very partial success attended the efforts of the first three. The award of the Meston Committee in 1920 gave no satisfaction either to the public men or the Government of the province. Our standard of expenditure on beneficial services is lower than in almost any other province and much lower than in some. Our progress has in consequence been lamentably retarded. Our needs are many but our means are narrow. A revision of the Meston award is urgently called for. Both the Government and the people are at one in urging this; at least they were in the time of Sir Harcourt Butler and Sir Ludovic Porter. I shall be both sorry and surprised if the present Government are of a different opinion. Personally I am of opinion that Madras and the United Provinces have fared the worst in the Meston award. But I am aware that this is not the view of Bombay and Bengal. After much thought I am compelled to the conclusion that no revised award would bring equal satisfaction to all the provinces or convince all of them that the contributions have been fixed on an equitable basis and that if constant bickerings are to be avoided, if there are not to be inter-provincial jealousies, if a sense of invidiousness is to be avoided, there is only one way and it is for the central Government to do away with provincial contributions altogether seeking other means of balancing its own budget and meeting its obligations. The still stronger reason for this course is that the relief here advocated is badly needed by all the provinces. I would urge an amendment of the Devolution Rules in this behalf.

44. *The Capital of the Province.*—A question that caused some trouble is whether the fixing of the capital of the province is a provincial or a central subject. If a particular city has been fixed by higher authority as the capital of the province, is it open to the head of a local Government or to the local Government to change it, openly or insidiously, with or without the support of the Legislative Council in that behalf? What are the inseparable incidents of a capital and is it open to a Governor to deprive it of them one after another while paying homage to the decision of superior authority by nominally calling it the capital and sanctioning the payment of daily allowances to three secretaries and sundry other officials for being in camp as it were, the 'camp' being the city to which the business of the Government has been transferred and the headquarters being rarely visited by them? These things have been done in my province, the protests of the citizens of the capital have proved useless, and more moves to complete the process are in the air. The Government of India Act having so anxiously safeguarded the authority of the Secretary of State and the Secretary of State in Council, the Governor-General and the Governor-General in Council, even in matters which in the judgment of many should be under the full control of local Governments, here is a point to which importance is attached in my province and which I therefore submit for the consideration of the Committee.

45. *Indian States in the United Provinces.*—There are three Indian States with which the Government of the United Provinces have political relations. In my opinion they should be brought into direct relations with the Government of India and freed from dependence upon the local Governments and their officers. It is good for neither of the parties that the present relationship should subsist. My suggestion is in harmony with the accepted policy of the present. It has been carried into effect in southern India and partially in western India. It should be in other parts of the country as well. I am here concerned immediately with the United Provinces. A political agent appointed by, representing, and responsible to the Governor-General may take the place of the three commissioners of divisions who now function as agents to the Governor.

Division of Subjects.

I shall begin with the division into central and provincial subjects.

46. *Railways and Tramways.*—Provincial Governments should have more voice in matters of railway administration affecting the convenience of passengers and goods rates. They should not have to disallow questions and resolutions relating to even small matters but should be in a position to afford relief. The interest in matters of trade and commerce of inland provinces are not identical with those of provinces with a seaboard, and thriving ports and industries established in such provinces suffer from railway rates being fixed by railway administrations with headquarters at ports situated in other provinces and looking at questions more from their view-point. For the East Indian Railway the United Provinces is no more than a corridor between Bengal and the Punjab. The Great Indian Peninsula, the Bombay, Baroda and Central India and the North Western railways are other instances of railway systems working in the United Provinces with headquarters in other provinces. Whenever the management of the E. I., G. I. P. and B. B. C. I.

railways may be taken over by the State I hope the interests of the United Provinces will not be neglected in any redistribution that may be considered of territorial areas under separate managements. What will be the least objectionable and most convenient means of securing for the provinces a voice in the determination of railway questions I am not now in a position to affirm. Possibly some means may be found of giving local Governments an effective opportunity of influencing the deliberations of the Railway Board. I do not here commit myself to a particular method. I am only desirous of bringing the questions to the notice of the Committee for such consideration as they may see fit to give to it.

47. I am not so very sure that in respect of *light railways*, which is rightly in the list of provincial subjects, there should be the reservation that 'any such railway or tramway which is in physical connection with a main line or is built on the same guage as an adjacent main line' is 'subject to legislation by the Indian Legislature'. I believe that in Madras which has set a commendable example of district board enterprise in the construction of light railways there is some soreness on this account as it has been felt for years that this form of enterprise is being depressed by what is felt to be an undue regard for the interests or the views and wishes of the South Indian Railway. The question has not assumed similar prominence in the United Provinces but it may any day, and I hope it will at an early date, and I think it right that provincial Governments should be freer of control than is indicated by the reservation quoted above. These observations apply equally to extra municipal (I am not here referring to cantonments) tramways. I do not think they should be subject to legislation by the central legislature.

48. *Inland waterways* should be a provincial subject except in so far as they may be inter-provincial or of military importance. The formula that they are a central subject 'to an extent to be declared by rule made by the Governor-General in Council or by or under legislation by the Indian Legislature' is not very satisfactory. '*Shipping and navigation*' is rightly a central subject, but not so the inclusion therein of 'shipping and navigation on inland waterways in so far as declared to be a central subject in accordance with entry 5 (c)'. I should say the same here as I have suggested above as regards inland waterways.

49. In item 19 of the list of central subjects, '*control of production*', etc., the phrase 'in the public interest' is too general and should in my opinion be replaced by 'for national safety'. Only to this extent should it be a central subject. I would say the same of the phrase 'expedient in the public interest' in item 20, '*development of industries*'. The language actually employed is even wider than in the foregoing entry for it is 'expedient' and not merely 'essential' whereas there is the geater reason for its being made more restrictive as the 'development of industries' is a transferred subject. In saying this I have not overlooked the phrase 'made after consultation with the local Government or local Governments'. In item 25 '*control of mineral development*', I would replace the present formula 'under rules made or sanctioned by the Secretary of State' by 'legislation by the central Legislature' as being more in accord with constitutional propriety.

50. '*E igration* from and immigration into British India and inter-provincial emigration' should of course be a central subject. But I would add to this entry (no. 29) words to convey that a local Government should have power to prohibit emigration from its province if in concurrence with its Legislature it reaches such a conclusion.

51. I would make no further recruitment to '*all-India services*' (item 40) for purposes of service under provincial Governments and I would request the Committee to consider whether, without in any wise disturbing the guaranteed rights of present incumbents, the local Governments' powers in respect of the services under them cannot be increased.

52. *Entry* 41.—As a rule, there should be no legislation by the central Legislature in regard to any provincial subject. To the extent that the interests of the whole country or of more provinces than one may be concerned, the Governor-General's right to veto legislation and to send it back for further consideration should suffice to prevent any wrong being done.

53. *Entry* 44.—I wonder if 'immoveable property acquired by or at the cost of the Governor-General in Council' includes property acquired at the cost of provincial revenues and maintained and controlled by local Governments. If, as I hope and believe, it does not, I cannot understand why a local Government even in a transferred department should be denied the right to deal with such property in such manner as it may deem fit. I have in mind the case of a house in disrepair at Saharanpur which H. E. the Governor and his Minister in charge of Public Works agreed on the recommendation of the collector to allow to be used free of rent by a local Anglo-Indian club on condition that it would meet the whole cost of repairs in the beginning as well as during the whole period of occupation, but which we were prevented from doing as both our own Finance department and the Accountant-General held that the local Government had no power to allow any house belonging to the Government to be used free of rent by anybody. Higher sanction was required, I forget whether of the Governor-General in Council or of the Secretary of State in Council. I may be pardoned to say that the maintenance of such rules in force is a *reductio ad absurdum* of the Reforms.

Public Services Commission.

54. I am not in favour of the constitution of a statutory Public Services Commission under the control of the central Government (entry 45). In taking up this position, which I may say I have done consistently ever since the proposal was first made in 1918, I am anxious not to be misunderstood. In 1921, when reference from the Government of India was laid before the United Provinces Government for consideration H. E. the Governor and all the four members of the Government were of one mind in returning a reply in the negative. We came to the conclusion that such a body for the whole of India would not be consistent with autonomous and responsible Government in the provinces while in the province itself we preferred the constitution of selection committees *ad hoc* when appointments had to be made as the same body of men would not be equally competent to judge the fitness of candidates for different departments and as further, canvassing could be reduced appreciably if different persons were set up as the selection committee on different

occasions. *My motive of opposition is not that Ministers should have patronage at their disposal. I do not want them to have it.* Wherever possible I myself avoided making any appointment except in accordance with the recommendations of selection committees composed generally of seven members and sometimes of five who included British officials and Hindu and Mahomedan non-official. To avoid as far as might be a misunderstanding of motive I invariably submitted the names of members as well as of the candidates finally selected for the Governor's approval. I am for competitive examinations as the normal method of recruitment and for the employment of the expedient adopted in the United Provinces in the examination for the recruitment of deputy collectors to ensure that a fixed proportion of Mahomedans do always get in. For example, if nine places were to be filled, we decided that the first six Hindus and the first three Mahomedans would be appointed. Before I resigned the decision was taken to introduce a competitive examination for the recruitment of excise inspectors. I am in favour of an extension of the system to as great an extent as possible. Where owing to the small number of appointments to be made—sometimes it may be only one—this method is unsuitable I would resort to selection committees. I would have no objection to a statutory provision that appointments should be made by one of these two methods. I would not however give to the executive Government a voice in the judicial appointments that High Courts fill. And I think nobody would say that ordinary promotions of officials already in service, appointments to fill temporary vacancies, and postings and transfers should be entrusted to a body outside the Government. My opposition to a commission such as has been proposed is based upon the conviction that such a statutory body for the whole of India is incompatible with responsible Government in the provinces and upon the further conviction that all-India services in the provinces should disappear after the term of active service of the present incumbents is over. I am of opinion that the qualifications of candidates for admission to the competitive examinations in the provinces should be prescribed by the local Government concerned. (If any province does not want this power the Government of India may relieve it of the embarrassment for such period as may be decided.) If a statutory Public Services Commission be preferred by a local Government let it have it by all means, provided its Legislative Council agrees. In any case I must steadfastly oppose a statutory Public Services Commission for all-India for as long as the Central Government in respect of all matters of internal administration and local Governments completely are not responsible to their respective Legislatures. I would accordingly cut out all reference to the Commission from the Act and the Rules and delete entry 45 from Schedule I, Part I, Central Subjects.

PROVINCIAL SUBJECTS.

55. I would do away to the greatest possible extent with the reservations in favour of legislation by the Indian Legislature except where matters are of inter-provincial concern and where the safeguard of the Governor-General's right of veto will have proved to be insufficient. I would also except High Courts.

56. *Education.*—'..Such other universities constituted after the commencement of these rules as may be declared by the Governor-General in Council to be central subjects' are declared to be a central subject. This indefinite

power should be taken out of the hands of the Government of India. All universities in British India should be provincial except only the all-India Hindu and Moslem Universities of Benares and Aligarh.

57. *Stores and Stationery.*—From the language of entry 27, Part II of Schedule II, the reservation in respect of imported stores and stationery should be done away with. The Secretary of State in Council cannot possibly be more regardful of economy in the interests of a local Government than that Government itself, which besides has to satisfy a critical legislative Council that there has been no extravagance or carelessness. In both the reserved and transferred departments the local Governments acting with the support of the Legislature should have complete freedom to make their own arrangements for the purchase of all the stores they may require—wherever possible, in India; where necessary, abroad. I have reasons for saying that this is a subject that calls for vigilance from the Legislative Council.

58. 'Railway contributions to cost of maintenance' of the Railway Police should not merely be a matter for determination by the central Government. Local Governments should have an effective voice in the settlement. I remember more occasions than one in the old Legislative Council when we were not at all satisfied that the decisions of the Government of India were equitable and we had indications that the Lieutenant-Governor was not satisfied either. I cannot urge in reasons that if no agreement is reached between the two Governments the inferior Government's view should prevail. But I am justified in suggesting that there should be some arrangement for a tribunal of arbitration whose decision, reached after hearing both parties, should be binding upon both.

TRANSFERRED SUBJECTS.

59. Some observations are offered here without prejudice to my opinion that all provincial subjects should be transferred to the control of Ministers acting as a Cabinet responsible to the Legislative Council of the province, the Governor acting in relation to them as a constitutional governor. Also: as previously stated, I would, in respect of all provincial subjects, do away with Indian legislation, retaining it only to the irreducible extent of absolute necessity. And I shall not repeat what I have already said regarding provisos and reservations, such, for instance, as that relating to new universities.

60. While I follow the reservation, in head 6 (*b*), 'justified by military necessity,' I have a greater difficulty in making out why the Governor-General in Council should also prescribe the 'incidence of special expenditure connected therewith'. This can easily be a matter of the actual amount spent, or, where a certain work is of utility both to the local Government and the Army, of settlement by consent. A work may be undertaken by a local Government not of absolute inutility to the civilian population but of comparatively small advantage, which it would not have cared to take in hand if it had not been suggested by the military or if the military had not promised a certain contribution. Half-way through, the military change their mind. The local Government should not in consequence be bound to find the whole amount or be under the necessity of leaving it half-finished. This is not a mere hypothetical contingency. I had a case of this

description which caused trouble. As I have said in paragraph 58 above, there should be reference to a tribunal of arbitration where a settlement by consent cannot be reached.

61. If I did not agree to the reservation in respect of *stores and stationery* required for reserved departments, much less can I agree to it in the case of transferred departments. (See entry 17 of the 'List of Provincial Subjects for Transfer'.) The freedom of action of the Governor acting with his Ministers should be limited only by his ability to carry the Legislative Council with him.

62. Difficulties have been experienced in administration owing to the division of subjects into 'reserved' and 'transferred' when as a matter of fact they cannot be divided into water-tight compartments. I shall give a few illustrations. There is *local self-Government*. Mention has already been made of the functions assigned to the commissioner and the collector in relation to district and municipal boards and of the difficult and delicate position in which the Minister finds himself on this account. Here is a specific case of a different nature. In the elections of March, 1923, a majority of non-co-operators were returned to the Allahabad municipal board. It was bruited about that they would, as soon as they got into possession, hoist a flag of their own over the municipal buildings. The magistrate and the commissioner believed this was going to happen and addressed, not the Minister, but the Governor in Council through the chief secretary. This officer noted to his chief the Finance Member (or the Home Member, more probably the former) and the case was sent up to the Governor. A certain course of action was decided and *then* the Minister of local self-Government was informed. No doubt he noted his opinion at that stage. But everything had been decided, as if it was all a matter of law and order and no local self-Government. By mistake of a peon the file came to me too, but when I saw that H. E. the Governor only wanted to know if 'H. M., L. S. G.,' had any observations to make I had to refrain from expressing an opinion. The identical subject had been treated as a matter for the Minister in the Central Provinces, and on an earlier occasion in the United Provinces, too. The action that the Governor in Council decided to take was not in accord with suggestions made by the Government of India in a letter signed by our Finance Member when he had been home secretary here. In the end nothing happened as neither the Allahabad nor any other municipal board did what it was suspected and feared it might do.

63. *Medical Administration and Education.*—There is a large amount of interference with the Minister chiefly on account of the I. M. S., but to a smaller extent also in behalf of the I. M. D.,—due to the General Medical Council of the United Kingdom, and to the special claims and demands of the I. M. S. I do not see why the General Medical Council should interfere: I have never been convinced of the necessity of the registration of our medical practitioners by that body. There are wheels within wheels and it is not always that all I. M. S.'s get equal justice or that Ministers can prevail. The story of the appointment of Lieut.-Col. M. N. Chaudhuri, I.M.S., as officiating principal of the Madras Medical College and its subsequent cancellation in favour of a Major, has been told in the press almost categorically and

not been contradicted or corrected so far on behalf either of the late Governor or the Chief Minister of Madras.

64. *Public Health.*—I have mentioned that the late Minister of Public Health in my province was not allowed to have an officiating director of public health who he thought was entitled to the place; as he was overruled in the selection of the inspector-general of civil hospitals. (Neither did his opinion prevail as to who should be under-secretary to Government in the department.) There is another important point. The Minister is responsible for sanitary arrangements at fairs and festivals, such as the big annual Magh Mela at Allahabad. But his staff have to work under orders of the magistrate and collector. And for a reason that neither I nor any one else could comprehend the Mela was made a sub-head of Agriculture and I was told it was my business, therefore, to defend the arrangements and the expenditure in the Legislative Council when Agriculture was under discussion. Our Finance department pleaded ignorance of the why or wherefore of this and had to move the Accountant-General or some one higher in the hierarchy to remove the item from my budget.

65. *Education.*—This is a much divided subject. It is partly central and partly provincial; partly reserved and partly transferred. It is under an hon. member of the Governor-General's Executive Council; it is under all the members of the provincial Government. The Education Member of the Government of India had (I do not know if he has it still) the Central Advisory Board and has his educational commissioner and the Universities Conference. Our director of public instruction used to be addressed direct and we had to stop the practice except where only statistical and other information was wanted. Benares and Aligarh Universities as a central and hence an Agency subject and European and Anglo-Indian education because probably an Indian Minister cannot be trusted, are under the Finance Member. A primary school attached to the Government Press is under the Home Member because the Government Press being 'reserved' and under him its primary school had also to be under the same control. Primary and all vernacular education was under the Minister of local self-Government while I was responsible for English secondary and collegiate education. I was also responsible to the Council for the Universities of Allahabad and Lucknow. It was decided by Sir Harcourt Butler in 1921 that as he was Chancellor *ex-officio* in his capacity of Governor, as both universities were almost entirely dependent for their existence upon financial aid from the Government which had to be voted by the Legislative Council on my motion, as my failure to get the demand voted might have to be followed by resignation, in short, as I was the man responsible to the Council, all communications from the University including those intended for him as Chancellor should be addressed to the education secretary to the Government and submitted to him after I noted thereon. This however he reversed in 1922 and directed that the latter class of letters should be addressed to his private secretary. His Excellency would send them direct to the education secretary (though neither was the Chancellor's secretary) and if ordinarily the latter sent the papers to me before submitting them to the Chancellor (or the Governor, I could not be sure which), this was not done invariably. My

representation in favour of a return to the first year's practice was not successful. What happened in the third year under the present Governor-Chancellor has been a matter of public knowledge for fifteen months.—There was a redistribution of business between the two Ministers after the first two left and now all three branches of education are under one Minister. Before, the two medical schools at Agra were under Pandit Jagat Narayan while I was answerable for the Medical College at Lucknow as an university institution. So was, I too, for the college, and the school of agriculture, the college of engineering and technical and industrial schools. They are now separated from the Minister of Education as he is not in charge of Industries and Agriculture. The reformatory at Chunar has a story of its own. It used to be under the inspector-general of prisons but many years ago it was transferred to the department of public instruction as an act of reform in respect of the treatment of juvenile offenders. As such it was under my control. After sixteen months of this arrangement the education secretary discovered that under the Devolution Rules reformatories were included in Jails, a reserved subject in charge of the Home Member. During the discussion that ensued almost everybody agreed that it would be a retrograde step to transfer the institution from the director of public instruction to the inspector-general of prisons. The *finale* of the story was that the Devolution Rules were disregarded in this particular and the *status quo* was left undisturbed. 'Welfare of labour' and 'factories' being 'reserved', I dare say that schools for factory labourers or their children would also have to be a 'reserved' affair. That Education is a transferred subject has not, I regret to add, deterred commissioners and collectors from reporting to the chief secretary against institutions and teachers on political grounds. It did not occur to them, neither was it put to them, that they should address such communications to the education secretary. I happened to see some such; I cannot tell whether they were all. In another connection I have adverted to the case of a school which incurred the displeasure of the deputy commissioner.

66. *Public Works.*—In the exercise of the power conferred upon him by the saving in 6 (*a*) of the schedule of transferred subjects and having got my assent the Governor assigned the construction of the Council Chamber at Lucknow to the General Administration department. The latter however took away an officer of the P. W. D. in active service from the post he held for work in connection with the Council Chamber, and I could only obtain information about this when I inquired if rumour in that behalf was true. It is needless to say that it is not possible for a Minister to act in this manner if he wanted the services of a reserved officer. There had earlier been a misunderstanding on account of another proceeding of the same hon. member in charge of General Administration about the purchase of a residence at Nainital to oblige a secretary contrary to a promise made to the Legislative Council by me on the suggestion of the finance secretary and with the approval of the Finance Member. Through the Governor's action the intended transaction was not proceeded with, but it was only abandoned after a prolonged controversy. The P. W. D. gave easily more trouble than all other departments put together, as Medical did to Pandit Jagat Narayan. None called for greater vigilance, and none was more difficult to deal with owing to the attitude of the I. S. E. officers

in the administrative grades. The corresponding officers of the Irrigation Branch were not more easy to negotiate in the only matter in which I had to do with them, *viz.*, the purchase of stores. In common with most other heads of departments but perhaps more than the rest they made a dead set at the stores purchase branch of the department of Industries. There was attempted interference by the Government of India in the selection of a superintending engineer. The Secretary of State reserved in his own hands the decision relating to temporary engineers ; not only were the Governor and the Ministers not given the authority which in my humble opinion should be theirs but their considered recommendation regarding an individual officer was promptly rejected by the Government of India. The Secretary of State also laid down the law for us with respect to specialist officers in the engineering branch of the Public Health department—a branch that continues to occupy an anomalous position. There was, too, in this department an interesting case of an application for retirement on proportionate pension, which brought out that the conditions laid down by the Secretary of State were not being strictly and uniformly observed by the Government of the United Provinces in the reserved departments and which led to a difference of opinion between the Governor and me. In the end I was not overruled.—The P. W. D., Buildings and Roads, demand for grant as presented by the Minister, includes the cost of works for reserved departments. This is not right. He is not responsible for the latter's policy and is often not in a position to defend it against criticisms. A motion of reduction or omission carried in the face of Government's opposition should not affect him and he ignores it. But in a dyarchical system he should not be placed in this anomalous position. Is it only to be dyarchy to the prejudice of Ministers ? I raised the issue inside the Government. But I was assured that the Finance department was powerless as the form of the Budget was prescribed by an authority not under the control of the local Government.

67. *Agriculture.*—The fragmentation and minute sub-division of holdings has long been recognised as an economic evil that effectually retarded agricultural progress and increased the difficulties in the way of the introduction of improved methods. In the department of Agriculture an inquiry was instituted in 1921 with the approval of H. E. the Governor. When however the officer who had conducted the inquiry submitted his report in 1922 and a certain amount of noting had been done by the officiating secretary for agriculture, it began to be doubted whether after all the question should not have been dealt with in the Revenue department—a reserved subject in charge of the Finance Member. H. E. the Governor decided that the case should be transferred to him. I raised no objection. It was only the other day—two years later—that the Governor in Council issued his resolution on the report of 1922. And his decision is that some work should be done in the Co-operative department—a transfered department, again ! This case may be cited as one of many illustrations of the impracticability of making or maintaining a clear-cut division of subjects into ' reserved ' and ' transferred.'

68. The College of Agriculture at Cawnpore had to go for several years without a professor of agriculture because the post was in the I. A. S. and the

Secretary of State could not make an appointment in England and would not allow the Government that maintained and was responsible for the institution to make an appointment in India. At last the problem was only solved by an exchange of officers between the United and the Central Provinces, which, however, after the two Governments as well as the two officers concerned had agreed, could only be put through with the consent of the Governor-General in Council. There is an officer in the United Provinces who was anxious to get into the College of Agriculture to fill a vacant post. The director of agriculture formed a good opinion of the fitness of that officer and the Government were desirous of appointing him. As the post was in the I.A.S., they addressed the Government of India and were told in reply that he must first be approved by a selection committee they would set up some time later. This body recommended to the Government of India to appoint this particular officer to the college at Coimbatore and send to us some one else. We were so informed by the Government of India. The officer did not want Coimbatore. We did not want the officer presented to us. The officer continues where he was in another department. Until the time of my departure I believe the said post in our college remained vacant. Yet, all the time, the Legislative Council could, if it chose, dismiss me if it was gravely dissatisfied with the affairs of the college.

69. Agricultural farms and the agricultural engineering section gave considerable trouble. The Council as well as many landlords had a plentiful lack of confidence in either and yet they wanted useful work to be done. It was not found an easy matter to give a new turn to the ideas of officers and yet there was little that the local Government could do to deal with them effectively. It had to be a work of persuasion and if moderate or qualified success attended the effort it was due partly to persistence and largely to the willing and tireless cooperation of an exceptional officer, my friend the officiating director, Mr. G. Clarke. It was not the same atmosphere for me after Mr. Clarke reverted to his substantive post. Mr. Clarke and I satisfied ourselves by joint inspections and very frequent consultations that while much good work had been and was being done undoubtedly, while some of the non-official criticisms were unjust and grossly exaggerated, there had been any amount of useless and wasteful expenditure and there was abundant scope and need for economy and retrenchment and more useful work. The director of agriculture recorded his opinion that on more occasions than one we had to go without the officers we wanted and to accept others whom we did not want because that was the pleasure of the authority who decided these matters. We have several competent officers in the provincial agricultural service who creditably officiated in I.A.S. posts, and sent up a proposal to reduce the I.A.S. cadre and convert one-half (or three at the time; eventually it was hoped the number might be five) of the posts of deputy directors of agriculture to U.P.A.S. posts. I cannot tell what was the fate of this proposal as no decision was conveyed to the local Government by the time I relinquished office. The legal remembrancer advised that a case had been made out for the prosecution for embezzlement of an officer of this department. He was suspended but the

local Government had to wait long to get the Government of India's sanction as the officer was appointed by the Secretary of State. I have heard a rumour that the sanction was eventually given and the officer convicted. But there were several months of uncertainty for the officer as well as the Government.

70. Gardens are under the director and the Minister of Agriculture. Until last year they were under the former only for budget purposes and in respect of transfers and postings. The controlling officer was actually the commissioner, who of course is under the control of no Minister. But there was the Minister's responsibility to the Council, and it was not easy to satisfy as the expenditure was very heavy and the income much smaller. It was agreed that parks could not be paying propositions but there were big gardens from which any private individual or firm might have made a fortune. Much demand had to be made upon the patience of the Council and a severe strain put upon its confidence, and at the other end a considerable effort made to introduce unitary and expert control. The results of the new system were very encouraging last year.—The gardens budget, which was 'transferred,' included very substantial sums of reserved expenditure, of which probably the chief item was Government and Circuit House gardens. I was in the middle of the effort to relieve my budget of these items not under my control when I ceased to be responsible therefor.—I found that the popular impression that there was much corruption among the Gardens staff, though naturally exaggerated, was in reality founded in fact. In the effort to bring to book those against whom a strong case was made out, I had the full cooperation of the director and the support of H. E. the Governor, though I had occasion to regret casual attempts at intervention by a few others.—At the time the scheme of reorganization was introduced it was decided that one officer sent out by the Secretary of State was not required and an arrangement by consent was made for that officer to leave on payment of the cost of passage and compensation. But the Secretary of State's sanction was required and this was not forthcoming. We would probably have had to go on paying him if fortunately the officer had not been taken over by Delhi.—It was decided that at the College of Agriculture and the Government botanical gardens at Saharanpur arrangements should be made for the training of gardeners to serve as superintendents and overseers. The Government had naturally to depend upon the experts of the department for a practical scheme. Thirteen months after the decision was taken no definite scheme was still forthcoming. And to-day, twenty-eight months later, I do not think anything has yet been done; I believe a beginning has not been made.

71. I do not know why it was only in Bombay that *Forests* was included in the list of transferred subjects. As a non-official member of the Council as well as later as a Minister I took a certain interest in the subject and have no hesitation in saying that it should have been transferred in other provinces as well—certainly in time. Year after year the proceedings of the Legislative Council have borne witness to the wasteful expenditure in this department. Agriculture and Industries being transferred subjects, *Irrigation* and Forests, too, should be. That the other branch of the P. W. D. is transferred, is an additional reason for the transfer of Irrigation.

72. have referred to the staffing of the *Co-operative* department by 'reserved' officers and to the rule relating to the *Excise* commissioner. Collectors and acting under their orders, deputy collectors, have more to do with Excise than they ought to have under a dyarchical system when they are reserved and the department is transferred. I have, likewise, referred to *Registration.*

73. *Industries* like Education is a much divided subject. Heads 17 to 20 of the schedule of central subjects and heads 14, 24, 26, 27, 31 and 43 of the schedule of provincial subjects reveal the extent to which matters pertaining to Industries are excluded from the purview of the Ministers in charge of 'development of industries.' It may possibly be held that not all the excluded heads have a necessary connection with 'development of industries' but I think my contention will generally be admitted with regard to the majority of them. And the non-provincialization or the non-transfer of some of them have the effect of hampering the work of Ministers of Industries. The provincial directors of industries have to be under two or, it may be, three members of the Government. Factories established by the United Provinces Government in the Forest department were disposed of last year without any reference to the Minister of Industries. A carpentry school established at Bareilly in the Industries department had been transferred to the Forest department before the new system of Government came into being and re-christened Wood Working Institute and was re-transferred to Industries only last year after nearly two years of effort. The latter was immediately able to make a substantial reduction of expenditure. The Minister of Industries can afford no relief to owners and managers of factories (boiler and factory inspectors are 'reserved') or to the labouring population. He does not know and cannot touch applications for prospecting licenses or mining leases. He can do very little if anything to facilitate the development and utilization of water power. His powerlessness to improve the position in respect of jail industries was effectively demonstrated in the United Provinces, where such small voice as was given to him in the first year when dyarchy was at a discount was practically withdrawn before anything tangible could be done because Jails is a reserved subject and dyarchy became operative. Great were the difficulties encountered in maintaining the first year's policy of stores purchase and it has gradually been watered down contrary to the expectation created in the mind of the Legislative Council. A Minister may be able to accomplish something tangible in spite of the system if he is strong and if he has the Governor's support. This last is the indispensable condition of everything. There is nothing to be said for the system itself. In this department as in others, an officer appoint in England has got to be put up with as a rule because he was appointed by the Secretary of State. I have never been able to understand why a local Government should not be free to make its own arrangements and settle its own terms even in the case of appointments in England. This may have to be done through the High Commissioner, but the right of decision should be its own.

74. Fiscal policy has, I suppose, more to do with the development of industries than with anything else. Yet when the Indian Fiscal Commission

was appointed it was the opinion of the Governor in Council that was wanted by the Government of India (as on so many other matters, sometimes when they related to transferred subjects). It was the director of industries and the Industries secretary who had to prepare the case but it had to go to the Finance Member, I having pointed out that it would be officiousness were I to presume to deal with the case or even to give an opinion that was not wanted. (Yet I had earlier been thought fit to be honoured with the flattering invitation to act as president of the Commission). But the hon. the Finance Member declined to touch the case saying it was no business of his. The secretary in his helplessness had to appeal to the Governor and His Excellency had to ask me to overcome my objection and take charge of this reserved case. I seem to remember that on one occasion His Excellency or his Government took the liberty of bringing to the notice of the Government of India the incongruity of asking for the opinion of the Governor in Council and ignoring the Ministers in subjects which were the latter's concern exclusively or partially. —Early in the life of the Government a question had to be answered that related to mineral springs. It was remitted by the Industries department to the Revenue (or some other) department under the Home Member on the ground that 'mineral springs' had nothing to do with 'development of industries' and 'development of mineral resources' was a reserved subject under that hon. member. The latter refused to deal with it on the ground that 'mineral springs' were not 'mineral resources.' The Governor was appealed to and His Excellency decided that it was Medical.—'Burma dry meat trade' was another matter that was kicked like a football from one department to another. It was first said that it came under 'development of industries.' When I firmly pleaded 'not guilty' it was presented to the Home Member as being a trade matter. He declined the present and it was eventually forced upon the Minister of Local Self-Government on the plea that slaughter-houses were a municipal concern. But no one was free from doubt until or even the last moment whether it was within the competence of the Governor acting with his Ministers to introduce and carry legislation to stop the trade or impose restrictions upon it.—I may here mention perhaps that after a decision was taken that as a measure of economy a Government press attached to Roorkee College should be amalgamated with the Government Press at Allahabad, the education secretary supported by the Home Member (he was the authority as regards the Government Press) stopped the innocent transaction at the eleventh hour by getting the Governor's support to the constitutional plea that as Roorkee College was part of a transferred subject the press attached to it was a transferred subject and its amalgamation with the reserved subject of the Government Press would be tantamount to the revocation of a transferred subject which it was not competent to the Governor to make without the previous sanction of the Secretary of State in Council. I hope I was not less keen to guard my own sphere than the education secretary and the Home Member and the Governor but I confess I was not impressed by this profound constitutional objection. Not impossibly there might have been other reasons. Assuming there was substance in the objection, what a commentary does it not furnish on the dyarchical constitution, under which apparently camels can be swallowed but gnats must be strained at.

Dyarchy unworkable.

75. The fact is that a clean cut is a practical impossibility. As the Government of Bombay observed in their dispatch to the Government of India of the 11th November, 1918,—

'A reference to the records of Government will show that there is scarcely a question of importance which comes up for discussion and settlement in any one of the departments of government which does not require to be weighed carefully in the light of considerations which form the province of another department of Government. The primary duty of the Government as a whole is to preserve peace and order, to protect the weak against the strong, and to see that in the disposal of all questions coming before them the conflicting interests of the many different classes affected receive due attention. And it follows from this that practically all proposals of importance put forward by the Minister in charge of any of the departments suggested for transfer....will involve a reference to the authorities in charge of the reserved departments....there are few, if any, subjects on which they (the functions of the two portions of the Government) do not overlap. Consequently the theory that, in the case of a transferred subject in charge of a Minister, it will be possible to dispense with references to departments of Government concerned with the control of reserved subjects is largely without foundation.'

The extent to which this prediction has been realized in actual administration is remarkable. In the light of my experience I must endorse every word of the above passage. The observations of the Government of Bombay on the question of financial control leading up to the conclusion that Ministers alone cannot be responsible to the Legislature because of the very real control that the Finance department must exercise over 'all expenditure up to the time when it is made,' have been demonstrated to be not a whit less true.

Conclusions and Proposals.

76. My conclusions and proposals with regard to Provincial Governments will, I expect, have been gathered from the foregoing statement of my experiences and opinions. It will be convenient if I attempt to re-state them categorically.

(1) The present constitution, designed as it was as a temporary expedient, admitted by its authors to be full of anomalies and imperfections, has not worked even tolerably satisfactorily as was hoped by its advocates or by those Indians like myself who gave their support to it because they recognized that it did mark a substantial advance over the system then in existence and even more because they saw that in 1918-19 no better or more liberal scheme had any chance of being accepted by His Majesty's Government and by Parliament.

(2) As the system is admittedly transitory and has proved to be unworkable without grave misunderstandings and frequent friction and unpleasantness which are detrimental to efficient administration and good government, there is no point in leaving it wholly or very much as it is because ten years have not elapsed since it was brought into being. It is feasible to remedy it. That it is desirable cannot be gainsaid by anyone who admits the evil and recognizes that it can be remedied. I hold it to be essential.

(3) That will be no real or effective remedy which merely seeks to patch up a defect here and a defect there. The real matter of the trouble should be grappled with and cured. I will not presume to say whether such a remedy will be consistent with 'the structure, purpose and policy' of the Act of 1919. Legislative enactments may be good servants but bad masters. They are meant to be instruments of good government for the benefit of the people, not fetishes to be worshipped. To me it is enough that the present Act has been tried and found wanting, that it has failed of its purpose of bringing a degree of satisfaction to the national consciousness of educated India, not only to justify but to necessitate its amendments or the substitution for it of a new and better Act, I do not care which. To say that at all costs and in all circumstances the structure and policy of the Act and the ten-year limit must be respected, savours to my mind of superstition more than statesmanship.

(4) The old autocratic or bureaucratic system of government having yielded place in the provinces to a system of partially responsible government, and the latter not having worked according to plan, there is in my judgment only one path that is open to those who are committed—practically the whole British people are so committed—to a steady advance towards responsible government and dominion status for India. *Provincial Governments should be transformed into fully responsible governments.* The inclusion of more subjects in the transferred group, assuming this to be in the mind of some, and the amendment of some of the rules, will be no solution. I am unalterably convinced by my experience and observation that so long as Finance, Law and Justice, and Police, are reserved, no amount of transfer of other subjects will assure to Ministers their rightful position in the Government or will induce any strong and capable body of private members of the Legislative Council to organize themselves as a party of supporters of the Ministers. To this I must add that the Governor's excessive discretionary powers must be curtailed, that ordinarily he should not be selected from among permanent officials, and that his position should be as it is in the dominions, that of a constitutional governor in relation to Ministers who should form a cabinet with collective responsibility. The exception to this will be in the case of 'agency' subjects, in the administration of which no responsibility will be owed to the Legislative Council.

(5) The agency subjects may be administered direct by the Governor with the assistance of a secretary. Or, the Government of India may make what other arrangement may better commend itself to their judgment.

(6) The guaranteed rights of present officers of all-India services ought to be respected and their proved grievances redressed, with

a due regard to the financial position of the central and provincial Governments and the interests of the taxpayer; but there should be no more recruitment to such services working in any department under the control of provincial Governments. Future recruitment should be on a provincial basis by means of competitive examinations. I am opposed to a statutory Public Services Commission, certainly until the Government is made responsible to the Legislature. Even afterwards I have not been able to satisfy myself of the wisdom of such a commission for all India.

(7) I would make a few deductions from or alterations in the list of central subjects on the lines indicated in paragraphs 46—53 of this memorandum. To the greatest possible extent I would do away with legislation by the central Legislature in relation to a provincial subject. And I would free provincial Governments of the obligation of obtaining the previous sanction of the Government of India to the introduction of legislation.

(8) Provincial Governments should be relieved of their contributions to the Government of India.

A FEW CRITICISMS ANSWERED.

77. I should like to say a word or two more before concluding my observations on provincial Governments. I have seen and heard it said that members of Legislative Councils do nothing to keep touch with their electorates. This condemnation has to be substantially qualified before it can be accepted as true. My own idea is that many members have taken care to retain contact with the electorate, although only some have made it a point of addressing public meetings. I can cite several names, the most notable among them being my friends Pandits Gokaran Nath Misra and Hirday Nath Kunzru. If I may mention my own case, I visited during two years and eight months no fewer than forty-seven districts out of the forty-eight of the United Provinces, several districts more than once, and more places than one in several districts, habitually got into touch with nearly all classes of the people, and delivered more speeches on all kinds of subjects, the working of the new system of Government included of course, than any newspaper would report and certainly more than was good for myself. Not only the two friends named above and myself but others did much to combat the non-co-operation movement. I attached such importance to this, my sense of its injury to the public weal was so deep, that, notwithstanding the disapproval of some of my own political and personal friends, I supported the Aman Sabhas in the commendable and unobjectionable portion of their activities. If it be said that much more should have been done by the Liberal party, the party to which it is my honour to give my loyalty in the service of the country, I would not dissent from the suggestion but would ask critics to bear in mind how difficult our position has been during the last six years and specially the last four years and still more, the last two years and a half. Deservedly or not, the Government has become thoroughly unpopular and the movement of non-co-operation initiated and led

by the most powerful man in the country was the people's answer to what they believed to be the wrongs done by the Government. And during a considerable period they passionately believed that it was the right answer and would achieve their supreme object of attaining Swaraj. To counteract such a force inspired by such a man as Mr. Gandhi, whose rare selflessness is only surpassed by his absolute fearlessness, would nowhere and at no time have been easy. Actually, the difficulty of the task was tremendously increased by the belief sedulously fostered by the preachers of that cult, that the Liberals were supporters of the measures of repression to which the Government thought it necessary to resort in the interests of law and order. The changed mentality of the Government, which I have endeavoured to prove in this Memorandum and elsewhere, completed the difficulties of the Liberals. So much has been said of the failure of my countrymen to co-operate with the Government that I suspect it has come to be thought that political co-operation, so far at least as India is concerned, need only be one-sided and it must be offered in all circumstances by the weaker party. I am constrained to say that so far as the progressive political parties go the British Government and their officers as a class have during the past nearly two years and a half signally failed to co-operate with Indian public men in the spirit of the Montagu-Chelmsford Reforms.

78. Neither in the Government nor in the Legislative Council nor in the general public life of the United Provinces has there been an exacerbation of Hindu-Moslem feelings since the introduction of the new system of government. This is not to say that there has been or is complete accord between them on all questions or that there have been no riots on the occasions of Bakr-Id and Mohurrum. I do not think, however, that any purpose is served by an exaggeration of this difficulty. Better relations will be induced not by our dwelling upon the differences in season and out of season but by giving their proper importance to common interests, to common wants and requirements, and to the many points of agreement which exist. I can say one thing with confidence. Neither Hindus nor Mahomedans are unaware of the motive and purpose of those who have almost specialized in this subject and are never tired of opposing the national aspirations and resisting the political efforts of both now on this plea and now on that. I am among those who are confident of a constantly improving understanding between them as both find more of responsible public work to do in conjunction with each other in the Governments and the Legislatures and the local bodies of the country. Here as in other spheres responsibility is the most effecti e antidote of extremism and proneness to mischief.

79. The interests of the masses of the population are best served by their own educated and enlightened countrymen. I am not insensible of the great good work done over a long series of years by many British Officers and am neither desirous of nor interested in detracting from its value. But never have I been able to agree to their claim that they alone are the friends of the masses of my countrymen and that there is a conflict between the interests of the classes and the masses. There is no more of it here than in any other land nor can the claim be sustained that the British in India have always been regardful of the interests of the masses and never done anything to prejudice

them. May I suggest one test? Catalogue all proposals made by non-official Indian members of our Legislative bodies in the three years 1921-1923 in the interests of the masses and in a parallel column the answers by which they were met on behalf of the British Government. Dr. Annie Besant's National Conference Organization has published a most informing and suggestive compilation on the work of the Indian Legislatures and I take leave respectfully to commend it to the Committee as a volume that throws much needed dry light upon the subject.

80. The disabilities of the depressed classes are urged as another formidable difficulty in the path of constitutional reform. I venture to ask without meaning any disrespect, what is the British Government's record of service for their uplift except that they have been placed on an equality with their fellow-beings in the eye of the law? More has been accomplished for the amelioration of their condition by private bodies than by the State. If I gratefully acknowledge the honourable place held among them by missionaries of the Christian faith, I hope everybody will give their due meed of recognition to indigenous agencies of social service and philanthropy of which of late years there have been not a few. The Government have rather lagged behind in the provision of funds. In the pre-reformed Council of the United Provinces my own and other non-official members' efforts to obtain even moderately adequate grants for the education of those classes were very partially successful. More was done in the desired direction by the late Minister of Local Self-Government, who had charge of primary education, than by the previous Government. In the new district boards there are representatives of the depressed classes and they are on the whole more alive to their needs than the old boards were. The social conscience of the Hindu community has been quickened and it is a sign of the times that orthodox bodies like the Hindu Mahasabha and the Sanatan Dharma Sabha meeting at Benares should have seriously considered this problem and that the Pandits of Kashi should have given their assent to a certain relaxation of the restrictions to which the higher castes have become accustomed. The criticism can be uttered that this is a very small step where there is such vast distance to travel. I am the first to admit that it is so. But I would point out that I am not aware of any society in any country which is very forward in the abandonment or the modification of customs amid which it has grown. Why, even the effort to secure suitable and even moderate changes in political constitutions achieves only a belated and partial success, although religion is not mixed up with them as it unfortunately is with institutions and customs social, because it is not in human nature for the 'haves' to surrender too readily to the 'have nots'. The conservative-minded oppose an innovation when proposed but become its defenders when it has become a fact and resist any change in it oblivious of their own earlier atttiude. This has been the way of the world all along and the latest illustration of it is furnished in the political sphere in our own country by the defence of dyarchy by some of those who fought hard against it in 1918-19 and by their resistance of attempts to replace it by a constitution that will at once be more workable in practice and more acceptable to the people. At all events the future of the depressed

classes lies with their own countrymen and cannot be improved substantially or permanently by persons who are not permanent inhabitants of the country and are outside the socio-religious organization of the community to which those classes belong.

II.

The Central Government.

81. I must preface my observations by the admission that they are not the result of experience or personal knowledge of the working of either the Government or the Legislature at Delhi and Simla. They are the opinions of a man who has bestowed a little study and attention upon the subject from outside, and in respect of the relations borne by that Government to the local Governments in the present system, from inside one of the latter for a comparatively brief period. My treatment of this part of the subject will therefore be different from and briefer than it has been in respect of provincial Governments.

82. For a just criticism of the existing position in the central Government and its relation to its Legislature (principally the Legislative Assembly, which after all is what matters) I do not know where to look for a better reasoned statement than to the Montagu-Chelmsford Report, particularly in chapter IV ('The Morley-Minto Councils') and still more in chapter VII ('The Congress-League Scheme') of Part I. I quote the following passages:—

'167. We find then in these proposals (the Congress-League Scheme) no connecting rod between the executive and legislative wheels of the machine which will ensure that they will work in unison. There are powerful factors working the other way in the differences of race and of political ideas. We must anticipate divergence, and the only question is whether that divergence will be fatal to good government. Upon this point we defer to the experience of history, and we draw from it the plain conclusion that, if the government is to be carried on, legislature and executive must in essentials be in harmony. Legislation is a necessary attribute of Government, because it is the means by which Government secures fresh powers when it feels the need of them for attaining its ends. But in the hands of the assembly it may become a weapon to paralyse the Government. Whenever the legislature distrusts the executive it can always restrain or control its activities by specific provisions inserted in an Act. There is no clear line between administrative and executive functions, and it would be perfectly open to an assembly which distrusted its executive practically to assume charge of the administration and, as Lord Bryce says, to reduce its Government to the position of a bank staff *vis a vis* the directors. That is a position into which no parliamentary government allows itself to be forced; and it would be an impossible position for a nominated Government of India. An executive which is independent of its legislature, as the Indian executives have hitherto been, can carry on the government in virtue of authority derived from without: a party executive can govern because it interprets the will of the people, as represented by the assembly; but wherever, as in Canada or Malta, attempts have been made to set up an irremovable executive and a popular assembly, acute conflict has ensued and has resulted in either an advance to popular government or a return to autocracy. "……But a legislature elected by the people, coupled with a governor appointed by a distant power, is a contrivance for fomenting dissensions and making them perpetual." We believe that in India, where the two sides are divided by race, and also by differences of standpoint, the discord would be much more serious than it has ever been in the Empire's history. We can see no prospect whatever ahead, along the road which we are invited by the Congress-League to take, but embittered and dangerous deadlock; to be resolved, when it arose, only by a plunge forward into parliamentary government at once, or by reversion to autocratic methods.

'173……As we have shown, the essence of the project is an executive, theoretically responsible to the Secretary of State but practically divided a legislature

responsible to the electorate, and a distribution of power which enables the legislature to paralyse the executive without having power to remove it .....

'174. .....If the executive attempted to overcome the legislature there would be conflict and agitation : if it gave way then it would become merely the agent of the legislature and might as well be chosen from, and by, the legislature at once.....'

'177. .....But, granted that the Government does its utmost, granted that the Indian politicians have a sincere desire to make the engine work, we still cannot see how they could do so, because success itself would be the negation of their ultimate aim, and ours, which is responsible government. They could not remain content with an alien executive, and therefore their policy naturally, and from their standpoint justifiably, must be to weaken and discredit it. There is evidence indeed that some of the advocates of the scheme are impressed by the force of these arguments, and look forward to producing a deadlock as a means of bringing the executive under the control of the legislature. We have no desire to produce deadlocks. We have no wish to advance only by first making government impossible. On the contrary, we believe that the path of progress lies in another direction. We believe in the possibility of "smooth and harmonious progress" pursued in a spirit of mutual good will and devotion to common interests. Our own proposals will show how we hope to start India on the road leading to responsible government with the prospect of winning her way to the ultimate goal, her progress hindered, it may be, at times by hills and rough places, but finding the road nowhere swept away by floods or landslides.'

83. Reading the passages quoted above, one is led to wonder that statesmen who raised these objections to the Congress-League scheme should themselves have fathered another scheme which laid itself open to the self-same objections. And it almost appears as if our present Swaraj party with a programme of obstruction and an attempt at paralysing the Government borrowed their ideas from the illustrious ex-Secretary of State and ex-Viceroy! 'Hills and rough places' have already been encountered. Is it necessary, and is it wise, that those in whom resides the power to act should remain without the will to do so until they actually find the road 'swept away by floods or landslides'? 'However this be, events have proved too strong. The Councils have done much better work than might appear to some of their critics. But they have ceased to satisfy Indian opinion and their continuance can only lead to a further cleavage between the Indian members and the Government and a further cultivation of criticism unchecked by responsibility.' If one did not know who uttered these words, and when, and of what, one would have no difficulty in thinking that some Indian publicist was describing the situation in the present year. Actually, this was the criticism of the Morley-Minto Councils uttered six years ago by the then Secretary of State and the then Viceroy. (*Report on Indian Constitutional Reforms*, part I, ch. IV, par. 100). It is my conviction, and I lay it earnestly before the Committee, that the present constitution of the central Government is defective and that its present position in relation to the Legislative Assembly is untenable and may any day become impossible. Change is required, early change, and change of a radical nature. I do not think it can be effected without a revision of the constitution by amendment of the Act.

The Secretary of State and his Council.

84. Section 2 (2) of the Act vests in the Secretary of State the superintendence, direction and control of 'all acts, operations and concerns which relate to the government or revenues of India, and all grants of salaries, gratuities and allowances, and all other payments and charges, out of or on the revenues

of India.' Section 3 (8) leaves it an open question whether the salaries and allowances of members of the Secretary of State's Council will be paid out of the revenues of Britain or India. Under section 5 the Council of India acting under the directions of the Secretary of State, is to do the Government of India's business in England. Section 9 (1) shows that in some matters the Secretary of State is bound by the opinion of a majority of his Council, while in certain others he is not. Section 9 (3) also confers a special power upon him. The committees of the India Council constituted under section 10 do most of the business of the Council and it is believed (1) that the Indian members, where more than one are appointed, are always in a minority in those committees and (2) that to a few of the committees—*e.g.*, political and military—an Indian is ordinarily not appointed. Another general belief is that in the India Office more than in Governments in India the secretaries are the powers behind the throne and are of much greater practical consequence than the members of the Council. Sections 17 and 18 make it clear that the Government of India have no voice in the determination of the emoluments of, or of any other question concerning, the officials of the India Office; yet section 2 (3) empowers the Secretary of State or His Majesty's Government to direct that they should be paid out of the revenues of India. Section 21 vests in the Secretary of State in Council the expenditure of the revenues of India. Section 19A empowers the Secretary of State in Council to delegate by rule to the Government of India any of his powers of superintendence, direction and control, and the third paragraph of this section shows that in respect of provincial transferred subjects, too, some at least of the powers that may be exercised by Government in India are only delegated powers. I confess I am ignorant of what substantial powers have been actually surrendered by the Secretary of State to the Governor-General in Council. But I am aware of, and share, the general belief in India that at least during the last two years and a half, there has been anything but 'a relaxation of control of Secretary of State.' It is possible there may have been a slight improvement in the present year, I do not know, I should add that I share the other popular impression that to a very considerable extent important matters are apt to be settled by means of correspondence between the Viceroy and the Secretary of State and that their respective Councils need not necessarily be knowing what matters are so settled, or why, or how. I shall stand corrected if I am wrong. While I should have been glad if the Secretary of State in Council had liberally exercised the opportunity of self-sacrifice bestowed upon him by section 19A, I cannot pretend that that would have carried matters far, as there is section 131(1) which declares roundly: 'Nothing in this Act shall derogate from any right vested in His Majesty, or any powers of the Secretary of State in Council, in relation to the Government of India.' And section 131 (2) similarly affirms the supreme and unqualified power of Parliament in matters both executive and legislative. This section may almost be said to be the finishing stroke. It is my deliberate conviction that in all matters of civil or internal administration of British India the Governor-General in Council acting with responsibility to the Legislative Assembly should be supreme and should be altogether free of the control of the Secretary of State. As it is not a part of my present propysals that he should bear the like relation to the Assemby in matters Foreign (and Political) and Military—subject in the case of the

latter to reservations which will presently be stated—the Secretary of State should retain his power of control in respect thereof.

85. The vesting of the control of *Foreign (and Political) and Military* in the Governor-General and the Secretary of State should in the first instance be for ten years and the position should be reviewed on the expiry of that period by a commission on which Indian opinion should be adequately represented. I would make the following further reservations in respect of *Military*:—

(*i*) The King's Indian subjects (including in this term the subjects of Indian states) should be eligible for service in all arms of defence, and adequate facilities for their training should be provided in India as may be decided by the Government of India.

(*ii*) A certain amount of annual military expenditure should be fixed which will be non-votable by the Legislative Assembly but over and above that any moneys that in the opinion of the Governor-General may be required for the defence of the country should be submitted to the vote of the Assembly in the usual form of a demand for grant. I would further suggest that if the Assembly refuse the demand it shall be within the power of the Governor-General, if he deemed it necessary to do so, to make the same or a smaller demand for a grant in the Council of State and such sum as that body may vote may be spent by him in addition to the non-votable amount.

(*iii*) Where there may be a dispute between the Government of India and the British War Office or Treasury in the apportionment of expenditure between the revenues of Britain and India or in respect of the chargeability of any item of expenditure to the latter, the dispute should be submitted to arbitration and the award should be binding, but it shall not be in the power of His Majesty's Government to veto the Government of India.

(*iv*) Section 22 of the Act should be amended so as to transfer to the Indian Legislature the power now vested in Parliament of sanctioning the expenditure out of the revenues of India of the expenses of military operations carried on beyond the external frontiers of His Majesty's Indian possessions.

The Council of the Secretary of State should be abolished. Notwithstanding changes made in its constitution more than once in recent years, there is nothing to show that it performs functions particularly useful or indispensable. Its Indian members have never been in a position of special utility to their country. The Crewe Committee Report of 1919 produced a hope of its probable disappearance in the near future but the Joint Select Committee's Report frustrated it a few months later. Opinion may vary about its necessity or usefulness under the present constitution; although Indian opinion has been nearly of one mind against it. I do not think any one can in reason urge that it should be kept up when, as is here advocated, the Government of India become mostly a responsible Government. To discharge his duties in relation to the two subjects which will still be under the joint

control of the Governor-General and the Secretary of State, no India Council should be required by the latter.

Sections 23 to 32 of the Act will require amendment but as perhaps the amendments will chiefly be consequential I need not detain the Committee over them.

88. *The Joint Select Committee of the two Houses of Parliament* may be abolished, too, for all it could do or has done for India during the past four years. The conviction has been steadily driven home to Indian public men that the check on the autocracy of the Government in India can only be provided effectively by the Legislatures on the spot and not by the Secretary of State or his Council, or by His Majesty's Government, or by Committees of Parliament or Parliament itself, or by British public opinion.

The Governor-General in Council.

89. Autonomous and responsible provincial Governments cannot co-exist with a supreme central Government not representative of Indian opinion and responsible to a distant Government and Parliament, and function without friction arising. This responsibility is, in the opinion of my knowing and thinking countrymen, only real so far as British and imperial interests are in question. Where Indian interests are affected, where we may feel a sense of grievance against the Government in India and appeal to the authorities in England for redress, it is a very exceptional circumstance that we get a sympathetic hearing accompanied by relief. The truth is, as J. S. Mill said, that 'the government of a people by itself has a meaning and a reality; but such a thing as the government of one people by another does not and cannot exist' except as 'one people may keep another for its own use', etc. The circumstances of the past reaching into the present render it impracticable for the transfer of control of the defensive forces until after a time but no such argument can be put forward against a transformation of the constitution and character of the Government of India in all civil departments so as to make it representative of and responsible to Indian opinion as expressed by the Legislative Assembly. It is sometimes argued by the upholders of the *status quo* that a people who cannot defend themselves are not a people entitled to the rights of self-government and foreign bayonets will decline to defend the country or maintain order at home in obedience to a national civil government. There is no force in this contention as it is due to British policy that Indians are at present incapable of taking charge of the army and other forces. And if the past is a guide to the future, the prolongation of the existing system of government will also mean a prolongation of the period of Indians' unpreparedness to assume that responsibility. Mr. Montagu himself remarked in the House of Commons from his place on the Treasury Bench on the incongruity of telling the people of India that they should have no political rights for as ong as they could not defend their country at the same time that British policy did not enable them or afford facilities for their training to undertake that responsibility. And during the further period of transition the Army will be under the control not of a Minister responsible to the Assembly but of the Governor-General. Provincial Governments responsible to their legislatures, the

Central Government virtually autocratic and answerable to an authority neither in nor of the country, a Secretary of State who is a member of the British Cabinet and responsible to the British Parliament which is equally ignorant of and indifferent to Indian affairs: this will be a strange combination which in the nature of things cannot make for good government and cannot endure. Nor am I for one prepared to admit that there will be such a deterioration of the standard of efficiency, if an Indian is substituted for a British Government, as to overwhelm the country with disaster. I am not prepared to assent to the claim that a very high standard of efficiency has been attained by the present system and that, such as it is, it cannot be fairly maintained by Indian Ministers and Indian officials. If mistakes must be expected in the future, plenty of them are made now as the files in any Secretariat or departmental office will testify. To me the relevant consideration is that efficiency of administration has no value apart from the prosperity, happiness and contentment of the people whose affairs are administered, and this vital test the present system has not stood and cannot stand. It is with no animus against the British Government and it is in no irresponsible spirit, but fortified by such humble knowledge as I have been able to acquire during a busy public life of twenty-six years and by such thinking as I am capable of, with a certain amount of confidence about the probable results, and with a genuine and deep-seated regard for the honour of England, the interests of India and the stability and peaceful development of the International Commonwealth into which we all wish to see the Empire transformed, that I advocate with all the strenuousness of an unalterable conviction such a revision of the present constitution as will convert the Government of India into a national government.

90. My proposals are:—

(*i*) The Governor-General of India assisted by the Commander-in-Chief and a secretariat shall have control over and be responsible to the British Parliament through the Secretary of State for India for the Foreign (and Political) and Military departments, subject to the reservations specified in paragraph 85 of this memorandum.

(*ii*) The civil government of the country shall be in charge of a Cabinet of six (or more) Ministers enjoying the confidence of and responsible to the Legislative Assembly. The relation of the Governor-General to his Ministers will be those of the head of a constitutional or parliamentary state to Ministers.

(*iii*) In general terms, the Legislative Assembly and the Council of State shall, in relation to the Government, respectively occupy a position and have powers similar to those of the British House of Commons and House of Lords.

(*iv*) The position of the Legislature *vis a vis* the Governor-General as regards the two departments under his control shall, during the next stage of the transitory period, be as indicated in paragraph 85.

91. *The Central Legislature.*—I would increase the numerical strength of the *Legislative Assembly* by about fifty per cent. so as to secure a larger amount of representation for the provinces but keeping up the present proportions of

members representing different provinces, communities and interests, providing that the proportions may be varied at the time, to the extent and in the manner that agreed proposals are formally proposed by them through their representative public organizations or representatives in the Assembly. I would not have nominated official members but replace them by such and so many Council Secretaries as the Cabinet may decide to be necessary, and I would restrict the number of nominated non-officials to such number not exceeding five per cent. of the total number of elected members and to represent such classes of the population and such interests failing to secure what the Governor-General may consider to be adequate representation, as he may deem fit. The right of selection I would vest in the Governor-General who shall consult but shall not be bound by the advice of the head of his Cabinet in making his nominations. The only important change which I would urge in regard to the *Council of State* is that indirect should be substituted for direct election, the electorates being the provincial Legislative Councils. The principle of proportional representation should be adopted in the case of these elections.

92. *Privy Council of India.*—I am in favour of the constitution of a Privy Council of India such as was proposed by Mr. Montagu and Lord Chelmsford in paragraph 287 of their Report and for the purposes indicated by them. With this addition, that there should be a Judicial Committee of that body composed of retired judges of High Courts and leaders of the bar who have retired from practice, to perform the double function of a Court of Appeal and the tribunal to which should be submitted for decision any constitutional disputes as to jurisdiction and cognate matters which may arise between one Government and another in India.

Conclusion.

93. I have stated freely and frankly, though I regret at perhaps too great a length, my honest and considered views on the working of the system of government introduced by the Government of India Act of 1919, on the defects that should be remedied and on the manner in which the remedy should be applied. I do not mind re-stating the conviction that is in me, that no steps smaller than those indicated here will in my judgment be adequate to the peaceful progress of India, to her constitutional development, to her attainment of the coveted and needed position of an equal member of the Commonwealth, self-respecting and respected, or, I will also say, to England's realization of her own position as the mistress of free nations. England's whole policy in India at least since Parliament passed the Charter Act of 1833 has been set to the education of India out of a position of dependence and tutelage into one of self-government. Long has been the time taken to achieve this result; it has still to be accomplished in large part. Many have been the mistakes of policy and administration which have been made; the straight high road of progress has not always been taken 'with firm step and intrepid courage'; there have at times been signs of doubt and hesitancy and a weakness to look backwards. On the whole, however, England has kept to the right track. I am here to plead that in the present strenuous years it is not enough that rulers of men should contentedly look upon their

own performances and cry halt to 'impatient idealists' or 'pestilential agitators'. Nor even that they advance at the pace of our country bullock cart when the motor car has become the fashionable conveyance. It is necessary, if strife between them and the people with whom they have to get on is not to become the normal feature of Indian political life, that they should revise their notions and adapt themselves to the situation and the requirements of to-day and to-morrow. I hope I shall not be misunderstood when I say that there will be and can be no party of the *intelligentsia* of the country among the supporters of the Government unless and until the present system with all its proved faults is replaced by a sounder and more progressive: in a word, by responsible government with the only reservations that I in common with my educated countrymen in general have been advocating.

94. I conclude this memorandum with a few passages which I place before the Committee with great respect as embodying truth and wisdom very opposite at the present moment, which the rulers of India may be pleased to reflect upon.

'When the object is to raise the permanent condition of a people, small means do not merely produce small effects, they produce no effect at all.'—JOHN STUART MILL.

'It is one of the uniform and unfailing rules that guide human judgment, if not at the moment yet of history, that when a long relation has existed between a nation of superior strength and one of inferior strength, and when that relation has gone wrong, the responsibility and the guilt rests in the main upon the strong rather than upon the weak.'—GLADSTONE.

'I hold that the capital agent in determining finally the question whether our power in India is or is not to continue, will be the will of the two Lundred and forty millions of people who inhabit India. The question who shall have supreme rule in India is, by the laws of right, an Indian question; and those laws of right are from day to day growing into laws of fact. Our title to be there depends on a first condition, that our being there is profitable to the Indian nations; and on a second condition, that we can make them see and understand it to be profitable.'—GLADSTONE.

'Constitutional government is the sole eternal truth in politics, the rare but the only guardian of freedom.'—LORD ACTON.

'India is a going concern, a problem in organic politics. Its needs cannot be met by an adjustment here and an adjustment there; they have to be viewed in their wide sweep. This spirit will have to be maintained after the Montagu-Chelmsford Report has produced its first harvest of legislation.'—MR. J. RAMSAY MACDONALD.

ALLAHABAD,
10th August, 1924.

C. Y. CHINTAMANI.

Addendum to Mr. Chintamani's Memorandum received with his letter, dated the 20th September 1924.

ADDENDUM.

I regret that the points treated in the following paragraphs were over looked in the Memorandum.—C. Y. C.

Between paragraphs 29 and 30.

29A.—The franchise has been extended to women in the United Provinces as in (I believe) two other provinces. I would give them the franchise in all the Governors' provinces, for both houses of the central Legislature and for the respective provincial Councils as well as for all statutory local bodies. And I would further declare them eligible for seats in all these bodies on the same terms as apply to men. I am not unaware of the extreme backwardness of education among women but, firstly, I do not believe in penalising those who are educated and willing or eager to exercise the rights or to perform the duties of citizens because of the unpreparedness of others; secondly, large numbers of uneducated men have been given the franchise, and thirdly, the admission of women to legislative and local bodies will itself be a powerful means of accelerating the wider diffusion of education among women generally as well as of facilitating measures of social reform.

Between paragraphs 80 and 81.

80A.—A great deal has been said of the backwardness of the electorate, of their consequent unfitness for the exercise of the franchise, and of the circumstance that they are hopelessly inadequate in numbers to be representative of the people at large. It is argued that an extension of the franchise will be wholly premature while the transference of more power to Legislatures so little representative will be to transfer it to an oligarchy. My replies are: (1) It is the bureaucratic Government which has left the mass of people uneducated, it is still interposing such obstacles as it can in the way of the more rapid diffusion of education among them, and there is not likely to be appreciable improvement for as long as power continues to reside in it. The transference of real power from the irresponsible bureaucracy to a Government responsible to the people themselves is, I am convinced, an essential condition of national progress in this as well as other directions. (2) The only function of the electors is to understand broad issues and to choose the candidate who in their opinion will serve them best. This the Indian electorates have shown themselves quite capable of doing. The large majority of electors in no country however advanced, Britain not excepted, are, or are required to be, competent to form an informed and intelligent appreciation of all the aspects of difficult and complex questions. (3) The so-called 'oligarchy' of Indian members of Legislatures, representative it may be of a very small section of the populace, are and will be at least partially representative of the people whereas the bureaucracy now in possession is wholly unrepresentative. To object to them on the ground that they are not or will not be completely representative

is a plea that reminds one of the truth that not unoften the best is the enemy of good. In Japan the electorate in the first instance comprised a little over one per cent. of the population. Other countries too have made gradual progress in the widening of the franchise, and Britain has been no exception. Yet Parliament exercised independent powers even when it represented only a small percentage of the population. I am now for an enlargement of the electorate by the widening of the franchise and for providing specially for the representation of the depressed classes and the labouring population of urban areas. I cite the three following passages as being of interest in this connection :—

Previous to 1832 there were less than 500,000 persons who had the right to vote in the election of members of Parliament. The Reform Act of that year increased the number to nearly 1,000,000 ;the Act of 1867 increased it to 2,500,000 ; the Act of 1884 increased it again to 5,500,000 ; and last of all the Act of 1918 increased the number of the electors to over 20,000,000. There are several millions of women to whom the vote is still denied.... .....Liberal Publication Department Booklets, no. 2, entitled *Principles of Liberalism*, 1924.

Most of the English boroughs may be roughly divided into those which were sold by their patrons, the great territorial magnates, and those which sold themselves to the highest bidder! 'The county constituencies of forty-shilling freeholders, although limited and unequal, were less corrupt and more independent than the voters in boroughs, but they were practically at the disposal of the great nobles and local landowners.' In 1793, when the members of the House of Commons numbered 558, no fewer than 354 were nominally returned by less than 15,000 electors, but, in reality, on the nomination of the Government and 197 private patrons. The union with Ireland in 1801 added 100 members to the House, of whom 71 were nominated by 56 individuals. In 1816, of 658 members of the House, 487 were returned by the nomination of the Government and 267 private patrons. Of these patrons, 144 were peers. 'The glaring defects of the representative system—the decayed and rotten boroughs the private property of noblemen, the close corporations openly selling the seats at their disposal to members who, in turn, sold their own Parliamentary votes, and the existence of great manufacturing cities distinguished by their wealth, industry, and intelligence, and yet possessing no right of sending representatives to Parliament'....(Taswell-Longmead's *Constitutional History.*) *Liberalism and the House of Lords* by Harry Jones 1912.

The mass of the people have no serious interests. Their votes decide all political issues, but they know nothing of politics. It is a disquieting but too well-founded reflection that the decisive word about tariff reform or taxation or foreign policy is now said by men and women who have never read a dozen columns of serious politics in their lives. Of the old narrow electorate of eighty years ago, probably at least two-thirds eagerly studied political speeches on the questions of the day. Today not five per cent. of the voters read either debates or leading articles. The remnant, however remarkable, is small. Democracy as a whole is as content with gross amusements as Bottles was with vulgar ones, and like him it leaves its mind to its newspaper which makes its Sundays much more degrading than those which he spent under his Baptist Minister. This is the atmosphere against whose poisonous gasses the schools provide in vain the helmet of their culture.—The *Times Literary Supplement* of the 21st August, 1924. **C. F. C.**

Memorandum by Shafaat Ahmad Khan, M. L. C. (U. P.); Litt. D.; Head of the Department of Modern Indian History, University of Allahabad; Lecturer in Politics, Allahabad University.

The nature of the Government of India Act.

The first thing which strikes a student of politics is the deliberate avoidance of rigidity or finality. The Government of India Act promises advance in a particular direction. But the arrangement is to be temporary, provisional, experimental. The study of the Act shows that everything has been done to provide elasticity, and to facilitate alterations, when they are needed. Unlike the constitution of the United States of America, the scheme embodied in the Government of India Act is eminently flexible.

What changes are necessary at the present time.

I think that full advantage has not been taken of the opportunities which the Act affords, and that alterations in the rules framed under the Act would have gone some way towards meeting the objections which are constantly made at the present time. Every student of English Constitutional history knows the distinction between the "laws" and "conventions" of Parliament. The Cabinet system exists by convention. It is not — at least, it was not till 1913—recognised by law. The Prime Minister is unknown at law.

(*a*) I think the deliberate use of these conventions by enlightened Governors would have facilitated the working of the Reform Scheme. There is for instance no inherent reason for the appointment of a member of the Indian Civil Service as a Finance Member. The Act does not compel any Governor to do it. Yet very few, I should rather say, no Indian has been appointed to a Finance Member. If this had been done, the hostility to the Act would have been greatly lessened.

I am opposed to the adoption of the system entitled "Separate Purse." This would complicate the working of Act, and render futile all schemes of expansion. The "Joint Purse" system has also proved a failure. I would suggest that, wherever possible, Indians should be appointed Finance Members. This does not involve any change in the "Joint Purse" system; it merely suggests a charge in the mechanism whereby the system can be regulated. I regard Finance as the rock on which all schemes of constitutional advance in India will split, and I believe the only way whereby the machinery of the Government can be smoothly run is by vesting the Indian people with the power of the purse.

(*b*) I think the time has come when some of the subjects, known as "reserved subjects" should be transferred to the Ministers and rules should be framed regulating the extent and conditions of such transfer. The present lines of demarcation were settled after prolonged inquiry; but my experience of the United Provinces Council has convinced me that it is essential to the success of the Reformed Scheme to get more subjects transferred to the Ministers.

This could be technically effected by amending the existing rules. The amendments would simply involve the cancelling of certain entries in the lists of "reserved" subjects in the provinces, and inserting them in the list of "transferred" subjects. I am not, sure, however, whether the Parliament would approve of this course. It is possible that it would prefer to move on the advice of the Commission provided for, in the Act.

(*c*) By law the Secretary of State remains the proper authority to "superintend, direct, and control all acts, operations, and concerns which relate to the Government or revenues of India;" and the Governor-General in Council is "required to pay due obedience to all such orders as he may receive from the Secretary of State" (Sections 2 and 33 of the Consolidation Act). But the Secretary of State has been authorised by the Act of 1919 to restrict by rule the exercise of his own power and control, this applies mainly to the control of these departments which have been transferred to Ministers. It is unfortunate that the changes proposed in the India Office, at one time, were not carried out. A glance at these proposals will convince anyone that they were extensive; but they were dropped, and the Secretary of State for India though shown of some of his authority, retains control of all acts and revenues of India.

(*d*) The failure of all attempts to form a party system is due to various causes. In the first place, the distinction between the "reserved" and "transferred" subjects precludes the formation of any party that will be consistently in harmony with the Government. In the next place, the lack of any principle that will bind the various groups into two or 3 distinct groups.

(*e*) The party system has been replaced by the personal following which a Minister may command. This is a vicious system, in the whole; for though an able Minister may command a large following by sheer force of merit, incapable Ministers are compelled to resort to devious way for the augmentation of their following. That this has brought a large amount of despotism and corruption in its train, can not be doubted by any person who has inside knowledge of the local Councils. I think, however, this phase will not be permanent, and I believe that parties will emerge soon, with distinctive policies and clear principles.

(*f*) I think that the system adopted in Madras, whereby the Governor appoints a Chief Minister, who selects *his* Ministers is excellent. I should, however, go further, and insist on an Indian Member of the "Executive Council" resigning when he is defeated on an important measure, I believe this was done by the late Sir K. Srinivasa Iyengar, and think this convention should be recognised in all provinces.

(*g*) I should make adequate and effective provision for the regular and frequent meetings of the Provincial and Central Legislatures. There is no time fixed for the summoning of these bodies, and unpopular Ministers may very well advise the postponement of the

meetings of the Council on flimsy grounds. Little time is given to the non-official resolutions, and matters of the greatest importance are given comparatively little attention.

(*h*) The electoral rules need modification, both as regards the qualifications for electors, and candidates for election.

(*i*) I do not believe that future electors can be educated to a sense of political responsibility in schools and colleges. If we were to cover India with schools and colleges until we had multiplied the educated classes tenfold without at the same time giving them any instalment of genuine political responsibility we would render India ungovernable under any system. School teaching will help to disintegrate deadening effect of custom, to open the eyes of the mind to new ideas, and enable a community to read the lessons of experience more quickly without experiencing the results that follow the giving of votes, education will tend to unfit a people for responsibility in public life. The *two things must go side by side.* In the development of electorates, as in the development of parties discipline is essential. There is no gainsaying in fact that the electorate is Moderate and that there is urgent need of the extension of primary education among the masses. It is useless to deny that a much larger proportion of money is spent on university and secondary education than on primary education. This seems to me to be most unreasonable.

(*j*) Establishment of Civil Service Commission.

I am convinced that the changes outlined above are absolutely essential to the success of the Reform scheme, and they should be carried out without delay. It will be noticed that they do not involve any amendment of the Act; but merely modifications in the rules framed under the Act, and the growth of "conventions" or "customs" of the Constitution. These reforms will, I believe, satisfy the people, for a time, but they are not adequate, and the amendment of the Act will be necessary.

I would suggest 1929 as the time by which the abolition of dyarchy in the Provinces will become essential.

Suggestion.

I would suggest that the modifications in the rules framed under the Act should be introduced forthwith; while amendment of the Act should be undertaken in 1929.

The Act should be amended in the following way:—

(1) As regards the provinces, I am in favour of the abolition of the distinction between "reserved" and "transferred" subjects. All subjects should be placed in charge of ministers who enjoy the confidence of the Council.

(2) The provincial Council should have full authority to deal with all matters affecting the internal administrations of the province.

As regards the Central Legislature (1) it will confine itself to the following subjects, customs, post, telegraph, mint, salt, opium, railways, army, navy, Indian States, and the members in charge of army, navy and the Political Department will not be responsible to the Legislature; members in charge of other departments must possess the confidence of the Legislature.

(3) The Council of the Secretary of State for India should be abolished, and he must occupy the same position as the Secretary of State for the Colonies does in relation to a self-governing Dominion.

It must, however, be clearly understood that no amendment of the Government of India should be undertaken unless adequate and effective safeguard has been provided for the Muslims of India. If the Mahommedans are united on any point, it is their special representation in the local Council and the Central Legislatures.

The perusal of the Montagu-Chelmsford Report will show that both fought hard against the principle of separate representations; they laboured strenuously for agreement on territorial rather than a racial principle. It was unmistakable sincerety and intensity of Muslim feeling which defeated them. I, and a number of Muslims, are opposed to it on principle. I believe that this is necessary only during the transition period and that all the communities of India will contribute their share to the building up of a strong and united Indian nation. Nor are our gazes fixed eternally on Islamic Countries in Asia. Our object in pressing this demand is exactly the same as those of other communities which do not demand communal representation. We will achieve the same goal by making ourselves fit for the responsibilities which will be conferred upon India under a system of responsible government.

The Muslim community cannot compete on equal terms with the other communities of India, in economic and educational spheres. It is comparatively small in numbers and backward in education; while its economic condition is most insecure. If no special representation is given to the Muslims, it will, I am convinced, wreck the scheme entirely. Among the common people, the natural instinct to live a peaceful is subject to violent theological rupture at frequent intervals, and each side looks to the other for State protection. The separate representation for Muslims was conceded by Lord Minto in 1906, and Lord Morley in 1909. The Government of India Act imbodied it in the statute. To propose a change in the principle of Act involving the abolition of communal representation, would, I am convinced, be productive of violent disorders in the country.

It is useless to disguise the fact that the inauguration of the Shuddhi and Sangathan movements has proved a most disturbing element in the problem of Hindu-Muslim unity. The same remarks apply to the species of Tabligh Associations started in Delhi and elsewhere. I am greatly afraid that the peaceful relations that subsisted during the years 1919-1922 have given way to a state of feeling in which each community suspects the other. This is most unfortunate, but it is palpable and flagrant, and we can no

more cover nor hide it with fine phrases than we can ignore the causes that give them birth—

(1) I would, therefore, lay down the following fundamental proposition, on behalf of the Muslims of these Provinces :—

"Before any amendment of the Act is undertaken, the special or communal representation of the Muslims should be maintained."

(2) In the next place, I am convinced that the proportion assigned to the Muslims in the local and central legislatures is grossly unfair, and I suggest, on behalf of Muslims of these Provinces that before any amendment is made in the Act, the following proposition should be agreed to by all parties :—

That majorities should not be turned into minorities in any province, and that the minorities in *all* provinces should have *adequate* and effective *representation* in the province.

(3) The Muslims should be adequately and effectively represented in the public services of their country.

A certain proportion of Muslims should be fixed for all Government servants, servants employed by the local authorities, and other bodies created and maintained or adequately subsidised by the State.

(4) There must be adequate guarantees as regards religious liberty and freedom of conscience.

(5) Before any change is introduced in the present Government of India Act, regard must be had to the four propositions enunciated above.

The Muslims will never consent to any change in the Act that does not embody the above propositions in the amendment to the Act.

These propositions must precede the formal passing of any amendment to the Act and the said amendment should embody it.

I believe these are the minimum demands of the Muslims of India, and I am firmly convinced that unless they are conceded, and embodied in the statute, the Muslim community will never agree to any change that may be suggested in the Government of India Act, 1919.

AGRA:
The 14th August 1924.

SHAFAAT AHMAD KHAN.

Letter from Akhtar Adil, M.A., L.L.B., F.R.A.S., Vakil, High Court, dated Agra, the 20th August 1924.

I have the honour to enclose the attached for favour of necessary action.

In a mass meeting of the Mussalmans held in Agra on the 14th of August 1924 and addressed by Dr. Ziauddin Ahmed, D. Sc., Ph.D., C.I.E., M.L.C., Pro Vice-Chancellor of the Muslim University, Aligarh, the following resolutions were unanimously passed:

That no form of Self-Government which does not provide adequate representation of Mussalmans in Legislature and other electorate bodies, can be accepted by the Mussalmans. It is also necessary that the interests of the Mussalmans be safeguarded by fixing an adequate proportion in all Government posts including the posts recruited by competitive examination and by providing special facilities in their education and by guaranteeing them their full religious liberty and by undertaking that no resolution or bill affecting the interests of the Mussalmans will be carried if ¾ of the Mussalman members vote against it. These safeguards are essential to maintain Hindu-Muslim unity without which Self-Government is impossible. These safeguards should form integral part of the constitution of the Government and it should not be changed if ¾ of the Mussalman members are against it.

That this meeting emphatically maintains that the Mussalmans will not support the grant of any further instalment of the Reform Scheme till the principles laid down in the above resolutions are settled.

True copy.

AKHTAR ADIL,
M.A., L.L.B., F.R.A.S.,
Vakil, High Court, Agra.

AGRA:
The 20th August 1924.

Memorandum of the United Provinces Liberal Association.

THE United Provinces Liberal Association welcomes this opportunity of placing before the Reforms Enquiry Committee its considered views on the subject of constitutional reform.

1. The Association notes that the terms of reference to the Committee are :—

(1) To enquire into the difficulties arising from, or defects inherent in, the working of the Government of India Act, and the rules thereunder in regard to the Central Government and the Governments of Governors' provinces ; and

(2) To investigate the feasibility and desirability of securing remedies for such difficulties or defects, consistent with the structure, policy and purpose of the Act,

(*a*) by action taken under the Act and the rules thereunder, or

(*b*) by such amendments of the Act as appear necessary to rectify any administrative imperfections.

The Association regrets that the terms of reference to the Committee are extremely narrow and restricted in scope.

2. The Association ventures to think, however, that substantial amendments in the Act are necessary in the interests alike of national progress and administrative efficiency. The present Act maintains intact the control of the Secretary of State except in respect of certain subjects transferred in the provinces. It rests upon the view that Parliament is responsible for the welfare of the Indian people and that that responsibility can only by successive stages be delegated to the Indian Legislatures. It is clear, therefore, that any large devolution of power from the Secretary of State to the central and provincial Governments is extremely difficult to effect by a mere amendment of the rules. Such devolution would have to be accompanied by greater control of the Indian Legislatures over the Executive Government, and while it may be possible under the Act to secure a certain amount of independence for the Government of India and the provincial Governments, such independence would be very different from real genuine responsible government. Without amendment of the Act, no element of responsibility can be introduced into the Central Government ; nor would the introduction of complete responsible government in the provinces without corresponding changes in the Central Government lead to a harmonious working of the administrative machine. The limitations which the terms of reference place upon the Committee's scope of enquiry are, in the opinion of the Association, calculated seriously to impair its usefulness and it reiterates its conviction that the constitutional problem requires investigation on a larger scale by a more authoritative and representative body. The Association, however, hopes that the results of the Committee's enquiry will demonstrate the necessity for such an investigation and it is in that hope that it has decided to place its views before the Committee.

3. The Association recognises that constitutionally Parliament is supreme and its sanction and approval would of course be necessary for

any changes in the Indian constitution. It, however, thinks that it does not follow from this that the Indian people are to have no voice in the shaping of their political future. They have a right to influence the decisions of Parliament by organized and sustained constitutional effort and the Association does not take the preamble of the Government of India Act to mean that Parliament would remain unmoved and unaffected by the representations of those who have a direct and intimate interest in the future well-being of their country. In determining the time and manner of each advance, the Association feels that Indian opinion is entitled to proper weight.

4. The Association is aware that Parliament has laid down that progress towards responsible government should be by successive stages. But the stages need not be many, particularly in view of the fact that even before the passing of the Government of India Act of 1919, India had had some experience of self-governing institutions. In the opinion of the Association, the suggestion that the Government of India Act should be expanded so as to provide for the transfer to popular control of all central subjects except the military, political and foreign departments is in no way inconsistent with the Declaration of the 20th August, 1917.

5. The last few years have witnessed a remarkable growth of political consciousness in the country. The demand for self-government is not confined to any particular section of the community. The ideas about Swaraj among the masses may not be clear or precise, but it is neither fair nor wise not to take note of the perceptible change in the mentality of the people. The ' pathetic ' contentment of the masses to which reference was made in the Montagu-Chelmsford Report has been disturbed, and it can no longer be said that they remain unaffected by the political currents and cross-currents of thinking and articulate India. The gulf which it was supposed divided the educated classes from the masses is not so wide as it is sometimes supposed to be and there is nothing more striking in the recent political history of India than the influence which the educated or political classes have acquired with the mass of the people.

6. All the symptoms of this new development may not always have been healthy. The Association itself has had to fight certain manifestations of it. At the same time it is clear that the task of maintaining order in the face of this popular movement is not likely to be easier in the near future and it is a question for thoughtful statesmanship to consider whether the present situation should be allowed to deteriorate further. It requires not only sympathetic handling but constructive statesmanship which would divert the energies of the people into fruitful channels. As it is, the Association thinks that the growing feeling of a struggle is productive of suspicion and mistrust about the motives of the people on the part of the Government and those of the Government on the part of the people. The atmosphere so created cannot from the nature of things, be conducive to a healthy growth of public life in the country and must result in serious damage to the interests of true progress and prosperity.

7. The Association is not unaware of the many objections to what is called a premature advance. It is, however, possible to exaggerate their force and the Association would beg leave to submit in the words of Lord Bryce, that " there are moments when it is safer to go forward than to stand still, wiser to confer institutions even if they are liable to be abused than to foment discontent by withholding them ".

8. The first and, perhaps, in some respects the strongest objection against self-government for India is the existence of internal dissensions among the various communities which inhabit this country. The Indian people are being constantly told that Hindu-Muslim disputes offer an insuperable obstacle to further constitutional progress. The Association recognizes that such differences still exist, and that Indian unity has not been completely achieved yet, and it deplores the communal tension that exists in certain parts of the country. But it ought not to be forgotten that efforts are being constantly made by the leaders of both the communities to improve the relations between them. So far at any rate as the demand for self-government is concerned, the Muhammadans are at one with the Hindús, though as a minority they are anxious to have their particular interests adequately protected.

The Association is also aware that the problem of the "untouchables" is considered to be another serious obstacle in the path of progress. It notes with regret that even some prominent politicians should use arguments of this character not in a helpful spirit but in one which is clearly indicative of a settled attitude of mind altogether hostile to any ideas of Indian progress towards responsible government. While fully alive to the necessity of amelioration of the condition of such classes the Association would beg leave to enter a caveat against such opponents by pointing out that the custodians of political power hitherto cannot claim a record of useful activity to their credit in their behalf. And the Association ventures to think that with the growth of a new consciousness in the country the future of this problem can be envisaged hopefully. In this connection it would draw attention to the remarkable growth of public feeling in favour of the removal of the disabilities imposed on such classes. In any case the Association thinks that the existence of this problem may be and is a good and cogent ground for safeguarding effectively the interests of minorities but cannot justify any opposition to progress.

The fact is that political ideals are the greatest levellers of communal and sectarian differences. Common national institutions are bound to create a common nationality. Such a phenomenon is not unknown in the history of other countries including the Dominion of Canada.

9. The Association is aware that in certain quarters the view is held that the electorates in this country are not prepared for the full burden of responsibility and that their schooling into responsibility will have of necessity to be a somewhat slow process. But it strongly maintains that it is only by the exercise of political power that the elector will acquire real political experience. It is of opinion that the electorate in India is at least as well prepared for the exercise of political power as the electorate in England was at the time of the passing of the Reform Act of 1832. It attaches importance to a rapid political education of the people, but it thinks that will only come with a larger transference of power such as is recommended by it. Partial responsibility such as the Act provides in the Provincial Governments will not, the Association fears, discipline the electorates into a proper sense of political responsibility. It is, therefore, necessary in the interest of the political education of the people itself that the transference of power should be such as will satisfy their legitimate aspirations and lead their activities into useful channels. In any case the Association thinks that the education of the electorate will not have so far advanced in 1929 as to justify on that ground alone a further instalment of constitutional reform, and it doubts whether even

those who suggest that India must wait until that year would be prepared to say that there should be no advance even then if the test of political knowledge is not fully satisfied by the electorates.

10. It is possible to multiply arguments against further constitutional advance, but those who advise India to wait until the year 1929 cannot be seriously thinking that these objections will by that time either lose their force or disappear wholly. Whatever force they might have had before 1917, the position has to be viewed in the light of the declared policy of the British Government and of the new consciousness of India. It also seems to the Association that these arguments overlook certain administrative considerations which make an amendment of the constitution on the lines indicated by it imperatively necessary. It will now beg leave to place those considerations before the Committee.

The Central Government.

11. The many administrative inconveniences which those who have had to work the Reforms have experienced reinforce the strength of the general considerations in favour of constitutional advance. The position in neither the Central Government nor the Provincial Governments can be regarded as satisfactory.

So far as the Central Government is concerned, the Association would point out that some of the difficulties experienced in working the Act were anticipated by the party which it represents. And, in their criticism of the original proposals they were described by the signatories to a memorandum by certain leading members of the party as lacking in "correctness of conception and in liberality". It was pointed out by men like Sir Dinshaw Wacha, that "the scheme aimed at providing a legislature with a two-thirds elected element therein" but in all important matters this legislature would retain the principal defect of the Morley-Minto model, *viz.*, "criticism unchecked by responsibility". They therefore went on to suggest the transference of some power to the Indian legislature. The memorandum submitted to the Parliamentary Committee on behalf of the Liberal Party was on similar lines.

12. Experience has demonstrated the soundness of this criticism. For the position of the Central Government cannot be regarded as being at all satisfactory. There is an Assembly with a large majority of elected members. It has considerable powers of criticism, and subject to certain reservations, it votes supplies. Constitutionally, the Government of India is under the direction, superintendence and control of the Secretary of State. Actually, it has to face an Assembly where it has a more or less permanent majority against it and when faced by a difficulty it must either yield or resort to certification. The Government of India has to be responsive to popular opinion as expressed in the Assembly; it has at the same time to take its orders from a political superior who has, in most cases, little personal knowledge of Indian affairs and who has perforce to depend for advice upon advisers whose knowledge of India is not always up to date.

13. The irremovable Executive has no party upon whose support it can uniformly rely. The Assembly itself has no definite responsibility assigned to it in respect of any subject. Given a system like this, conflict between the Legislature and Executive organs of Government is inevitable and the Association apprehends that as time goes on such conflicts are likely to be more numerous. Such a system cannot effectually train a

people in responsibility. It is not surprising that the Assembly should, of late, have shown unmistakable signs of resenting the limitations which the statute places upon its power. From the Government's own point of view, the position cannot be described as satisfactory. The Government has two masters to serve—one to whom it is constitutionally responsible and whose orders it must carry out, the other whose pressure it feels and whom it has, as far as possible, to carry with it. In the circumstances it cannot always be easy for the Government of India to act with that confidence, vigour and independence which a Government deriving authority from a popular house would undoubtedly possess.

14. The association of an Executive not even united by homogeneity of political views or outlook, controlled by a Secretary of State owning responsibility, as a member of H. M.'s Government, to a Parliament of a different country, with an elected legislature composed of representatives who can claim to speak for large sections of the Indian community, is embarrassing both for the Government and the legislature. The changed circumstances require that the control of the Secretary of State, at all events over the purely civil administration, should cease and it should be replaced by the control of the legislature on the spot.

The Association would, therefore, separate the civil administration from the military and political and foreign departments and would make the Government of India wholly responsible to the legislature in respect of the former. The latter should for the present be reserved in the hands of the Viceroy but they should also be handed over to Indian control as soon as India is ready for it.

15. These changes cannot be made by an amendment of the rules. It is doubtful whether any substantial devolution of power is possible under section 19A of the Act. The Association does not dispute that it is possible to make certain rules which would, to a certain extent, expand the powers of the Government of India but under this section the Secretary of State cannot divest himself of his control over the Central Government, for that he can only do, as Sir Malcolm Hailey put it, " when we have responsible government, that is, when certain subjects are transferred to the control of the Indian legislature. " It was pointed out by the Joint Select Committee which considered the Bill " that in the relations of the Secretary of State with the Governor-General-in-Council, no statutory change could be made so long as the latter remained responsible to Parliament, but that in practice the conventions, which governed those relations might wisely be modified to meet fresh circumstances caused by the creation of a Legislative Assembly with a large elected majority. In the exercise of his responsibility to Parliament, the Secretary of State may reasonably say that only in exceptional circumstances should he be called upon to intervene in matters of purely Indian interest where the Government and the Legislature of India are in agreement. "

16. The conventions suggested by the Committee have not in practice always been observed ; the general popular impression is that there has been a period in recent years during which the control of the Secretary of State has been exercised in a manner not altogether reconcilable to the spirit of these conventions. The Association notes that the position taken up by Sir Malcolm Hailey was that " if we are to be correct in the maintenance of constitutional form the Secretary of State should not divest himself of authority under section 19A, until we have made that change in our constitution as a consequence of which certain subjects can be handed over to

the control of Indian Ministers, in other words, until they are administered by Ministers ". The conclusion therefore to which the Association is driven is that there are legal and constitutional difficulties in the way of adequate action under section 19A, and that the only way in which the relations between the Secretary of State and the Government of India, which in theory and fact is subordinate to His Majesty's Government, can be established on a satisfactory footing is by an amendment of the Act itself. But even if some real relaxation of the control of the Secretary of State may be brought about by rules made under section 19A, it is clear that so long as the Assembly acquires no control over the Executive in a corresponding measure the conflicts between the Executive and the Legislature cannot be avoided.

17. The changes which the Association suggests cannot be effected by a mere amendment of the rules under the Act. As has already been pointed out, the Act maintains the responsibility of the Government of India to the Secretary of State. It is obvious, therefore, that so long as the Indian Government continues to be responsible to Parliament, the Secretary of State would not constitutionally be justified in divesting himself of the powers of superintendence, direction and control vested in him. At the same time it would be possible for him to prescribe the mode and manner in which he shall in future exercise his power. This would not however be the same thing as responsible government.

18. Without prejudice to its conviction that the situation requires much larger measures than can be introduced under the Act, the Association would suggest that all possible advance under the Act should be effected, and its precise suggestions would be as follows :—

I. The rules under section 19A, should provide for a definite acceptance by the Secretary of State of the Joint Committee's recommendation that he should only in exceptional circumstances intervene in matters of purely Indian interest where the Government and the Legislature in India are in agreement.

II. The Government of India should be left a free initiative in legislation and finance. To make this clear, the Government of India should be at liberty to introduce any bill or measure—financial or otherwise—without previous reference to the Secretary of State. And he should only interfere in cases where vital imperial interests are involved.

III. Section 21 provides for the control of the Secretary of State over the expenditure of the revenues of India. The financial control of the Secretary of State places in his hands such a powerful weapon that its exercise has the inevitable effect of emphasizing the subordination of the Government of India. Normally the latter should be left free to deal with its finances consistently with provisions enabling the Secretary of State to discharge his obligations incurred on behalf of India in England.

IV. The statutory qualifications under section 36 (3) prescribing certain proportions to be observed in the Governor-General's Executive Council should be done away with. So long as that section stands it is imperative that at least three members of that body must be persons who have put in ten years' service under the Crown in India. But it is evident that even in the initial stages of the attempt to progress towards responsible government it is not desirable that the members of the permanent services should have any controlling voice in the shaping of Indian policy.

V. The franchise should be lowered in the case of both houses of the Central Legislature, and their numerical strength increased.

This is possible under the Act provided certain proportions of elected and nominated members are maintained. The strength of the Assembly as well as of the Council of State may well substantially be increased.

VI. The Viceroy's power of certification under 67B (1) should be limited to cases where the safety or tranquillity of British India or any part thereof is involved. In any case the word "interest" there is too wide and should be replaced by a word with a more definite and limited meaning. As was said when the Bill was before Parliament, "the word 'interest' is so wide that one does not know what to mean by 'interest'."

VII. In the opinion of this Association there does not seem to be any good reason why any item of expenditure should be excluded from discussion or so many items fr(n voting by the Legislative Assembly. The Association ventures to think that from the point of view of the Government itself there will be greater security for its budget if it shows full confidence in the Assembly, for it is in the nature of things that trust begets trust while political responsibility is the most effective antidote to political extremism. Should the Assembly, however, at any time so treat any part of the budget as really to weaken the efficiency of the army or imperil the safety of the country there would be every justification for the exercise of the power of certification by the Governor-General which will still be maintained during the period of transition in respect of the three excluded departments.

As regards all the items of expenditure mentioned in 67A (3), the Association is of opinion that they should be carefully examined and where a clear necessity is established they should be met out of a consolidated fund which will be non-votable.

VIII. The Association does not favour the continuance of section 96B as in its opinion the functions which are performed by the Secretary of State in Council including the making of rules as to recruitment, conditions of service, pay and allowances, and discipline and conduct, should be transferred to the Governor-General in Council subject of course to guarantees for the right of the services. This can only be effected by an amendment of the Act. In the alternative the Secretary of State in Council should delegate his powers as provided in the section, it being made clear that the Governor-General in Council and the local Governments shall be at liberty to determine in the light of experience, to abolish any appointments.

Provincial Governments.

19. As in the case of the Central Government, so also in the case of Provincial Governments, the terms of reference to the Committee are extremely narrow. They do not seem to allow any freedom to the Committee to recommend the establishment of full responsible government in the Governors' Provinces. The demand among Indians has been increasing day by day that Dyarchy having failed the only course open to Parliament consistently with the Declaration of 1917 is to establish full responsible government in the provinces. That Dyarchy has failed of the hopes formed of it is the general verdict. Several persons who have held the position of Minister have declared that it is impossible to administer transferred subjects without directly and effectively sharing in

the control over the finances and other allied subjects. The provincial subjects are so inter-connected, that any artificial division, however meticulous, between transferred and reserved subjects is apt to create difficulties and such difficulties have been experienced in the actual working of the system.

From what the Association has been able to gather, there is no active co-operation between the two halves of the Government. It does not appear that the principle of collective responsibility of Ministers has been accepted in practice in almost any province, nor that there has been a systematic joint deliberation between the two halves of the Government, although there were definite recommendations by the Joint Select Committee on both these points. Obviously such a system cannot work satisfactorily and it is no matter for surprise that in fact it has not.

20. Complaints have also been heard that the transferred departments have not in regard to certain important matters enjoyed that measure of initiative and freedom from the control of the Government of India which the framers of the scheme recommended and expected and which they should possess to enable Ministers to discharge their responsibility to the Legislature. How far these complaints are well founded can only be established if the Government and the Ministers will take the public into their confidence. Naturally Governors in Council are even less free of the control of the Central Government.

21. If Dyarchy cannot work satisfactorily and is a system of government which is theoretically unsound as well as practically defective, if the division between reserved and transferred subjects can never be perfect, if the Ministers, the members of Executive Councils and Governors cannot work harmoniously, if the " responsibility " in certain subjects is merely a source of friction, if competition between the reserved and the transferred half for the available funds is to continue as at present, and if the control of the superior services serving even in the transferred departments is not to be vested in the Ministers, it is high time that the system disappeared and was replaced by another more logical and more beneficial. Consistently with the Declaration of 1917, the only system of government which can replace the present is full responsible government in the provinces with a cabinet system of Ministers.

There cannot be a half-way house between the present system and the full responsibility and autonomy of local governments, and the Association thinks that no amount of argument to the contrary can satisfy the legitimate and national demand of the people.

22. The establishment of full responsible government in the provinces being the objective, if cannot be done by the transfer of more subects to the control of the Provincial Legislature or by some changes in the Rules framed under the Government of India Act, or merely by slackening the limitations and restrictions placed on the powers of Provincial Governments. What is required is a change in the provisions of the Act itself so as to provide for such a form of government. It is for this reason that this Association begs to protest against the narrow terms of reference and submits that the present hesitating and halting policy of the Government should be replaced by a policy of constructive statesmanship marked by courage and calculated to draw the support of all sections of the people who, when once they are convinced that Parliament has given them real self-government will, the Association feels, change their entire outlook

and methods and shoulder full responsibility for the administration. Until this is done the Association apprehends that an atmosphere of suspicion and distrust and the consciousness of a continued struggle resulting in repeated friction must lamentably warp all useful public activity.

23. It is not the purpose of this representation to enter into minute details of the difficulties of the day to-day administration of the Provincial Governments, which the Committee will be able to ascertain from the Ministers and others who have been inside the Government ; nor is the Association in a position to criticise those details as the rules framed for the purpose are kept confidential. The object of the present representation is to submit that nothing short of full provincial autonomy together with the changes in the Central Government which have already been set forth will meet the requirements of the situation. In view, however, of the terms of reference the Association submits the following proposals in the alternative :—

I. Provincial subjects should not ordinarily be subject to legislation by the legislature of the Central Government.

II. All subjects except agency subjects should be transferred to the control of Ministers.

III. Subject to paragraph 18, VIII of this memorandum, Governors in Council and Governors acting with Ministers should have full control over the services serving under them.

IV. The restrictions as to previous sanction of the Governor-General for introducing legislation in the Provincial Legislature should be done away with.

V. The character of non-votable items of the budget should be strictly defined and their extent should be reduced to the narrowest limits.

VI. The position of the Governor should be that of a constitutional governor.

VII. Rules under Section 49 should be so framed as to conform in every respect to the provisions of the Act and the report of the Joint Select Committee.

Letter from the Honorary Secretary, the United Provinces Liberal Association, Allahabad, dated the 26th September 1924.

I have been directed by the Committee of the United Provinces Liberal Association to send to you a copy of the resolution, which I am enclosing herewith, adopted at its meeting held on the 15th September, Mr. C. Y. Chintamani presiding.

Kindly place the same before the President and the other members of the Committee.

II. (*a*) The Committee of the United Provinces Liberal Association are of opinion that the franchise should be widened so as to make the councils more adequately representative of the people and that concurrently the numeral strength of councils should be adequately increased so as not to make electorate unwieldy, which many of them are even at present.

(*b*) The Committee urge that special provision be made for the representation by election of the depressed classes and of the urban labouring population.

(*c*) In the opinion of the Committee women should have the franchise and be eligible for candidature on the same term as men.

Letter from Kunwar Ravindra Narayan Singh, General Secretary, Sri Bharat Dharma Mahamandal, No. D.-7767, dated Benares, the 8th September 1924.

I have the honour to address you on behalf of Sri Bharat Dharma Mahamandal—an All-India Association representing the orthodox community of Hinduism with 700 branches and affiliated institutions in India and abroad, having many of the principal Hindu Ruling Chiefs, Spiritual heads, and the pick of Hindu wealth and culture as its constituents—with regard to a very important matter affecting the vital interest of the Hindus as they are situated. I trust you would be pleased to consider this representation in the course of your official enquiry into Indian reforms.

2. Liberty of thought and freedom in religion as well as non-interference with social rites and traditions have been the declared policy of the British Government since the day of its taking the charge of administration in India. Whenever any representation has been made to the Government a distinct and unequivocal assurance had been vouchsafed to the party concerned that a free latitude to the people in religious matters is and has been an essential principle of British rule which has therefore been regarded as a just and liberal administration.

3. Under such favourable and well-meaning assurance it is but natural to expect that no legislative bill or measure calculated to interfere with the time-honoured religious rites and customs of the people should be allowed to pass into law so as to injure the feelings of the people concerned and infringe the liberty granted to them. Instances are not wanting where such action has not been taken as would arouse a feeling of discontent of the majority of His Majesty's subjects in this vast continent.

4. Dr. Gour's Inter-marriage and Age of Consent Bills, Rai Bahadur Bakhshi Sohan Lal's Bill in respect of a husband's living with his wife of less than 14 years, and other bills of similar nature, are the glaring instances of such legislative encroachment on the Hindu religion. It may be submitted with relevance in this connection that representations from various quarters including this All-India Society strongly protesting such measures were submitted in each case but to no practical effect. On the other hand it is customary to allege in reply to such oppositions that bills brought forward and passed by the majority of members in the Legislative Assembly have the authority of the country at their back. The refutation of this argument is not far to seek: here are His Excellency the Earl of Reading's own words to support us: "The Governor General's duty is not, as we all know, merely to give effect to the views of the majority, but to take a particular exception in relation to bills which contains provisions affecting religion or religious rites." This being so the bills finding support of only a limited section of the Indians in the Legislative Assembly cannot be taken as having been approved by the rest of the country whose interest is virtually affected by them. The existing legislature, it is no secret to say, have no special representatives of the old school of Hinduism of which the Hindu India is mainly composed. As has been often submitted, it may be pertinently reiterated here also that

the members seekng such legislative help to interfere with, nay, to destroy the time-adored religious and social orders, are unquestionably anything but orthodox Hinpur in the true sense of the word, and as such can never be looked up to as authority with regard to such grave matters as are calculated to affect very vitally the religion of the Hindus. They are in fact no representatives of the people from whom they have in many respects detached themselves so far as their thoughts, principles and aspirations are concerned.

5. Under the circumstances it seems imperative, in the interest of the orthodox Hindu community—the truly loyal subjects of the British Government—that special attention be paid to all such matters giving rise to frequent controversies. The most essential step that the Government of India may be pleased to take is to allow a special representation in the Central as in the provincial legislature to the said community. In this case Bharat Dharma Mahamandal may in all fairness be authorised to nominate some of its trusted leaders from different provinces to represent the orthodox Hindus in the legislature. Over and above this, it is equally necessary for the Government to consult the Mahamandal and any other similar respectable and truly representative associations of the orthodox Hindus whenever any occasion to tackle religious questions arises whether in the legislature or outside the same.

6. I beg leave to add here in this strain for His Excellency's consideration that it would be only fair if similar privileges and freedom be granted to the rest of His Majesty's subjects following other faiths in respect of their religion and religious observances.

7. In conclusion, I may be permitted to state that however well meaning and sincere may be the gentlemen seeking such changes or reforms through legislation, their action is always open to criticism. The religious scriptures and social laws are still there and any changes sought to be made in religious or social matters should be left to the people themselves instead of forcing the same on them through any external agency in which case the consequences should be evidently anything but desirable.

8. In order therefore to meet this legitimate demand it has become indispensable that some appropriate rules or orders be framed under the Government of India Act, or if needed, the Act itself may be modified to the extent as may satisfy the end in view in order that the principles of action for granting or withholding sanction under section 67, clause (2) of the Government of India Act may be laid down. We pray that in framing such rules or orders or introducing necessary changes in the Act itself as may be deemed proper, the Honourable members of the Committee be pleased to keep in view the fact that no bill jeopardising the religious or social rites and usages of any class of British subjects in India or repealing or amending any act or Ordinance made by the Governor General within the meaning of section 67, clause (2) of the Act, should be allowed to be introduced in the legislature by a private member unless Government are thoroughly satisfied as to the existence of a general outstanding demand for such legislation from the community concerned after a sufficient enquiry into the matter.

Trusting to be favoured with an encouraging reply productive of some tangible results.

Letter from the Secretary, Under India Chamber of Commerce, dated Cawnpore, the 13th August 1924.

The Committee of the Upper India Chamber of Commerce understand from the Associated Chambers of Commerce that the Reforms Enquiry Committee are prepared to receive evidence, in the form of memoranda, from individual Chambers, members of the Associated Chambers of Commerce.

The Committee of this Chamber accordingly desire to be permitted to offer the following observations on the questions which are the subject of investigation by the Reforms Enquiry Committee.

My Committee do not propose to go into details but to express their views in general terms.

In November 1918 the then Committee of the Chamber criticised the proposals contained in the Montague-Chelmsford Report on Indian Constitutional Reforms.

In doing so they emphasised certain points whereon the recommendations contained in the Report failed to meet the ideals which the Chamber had set as to the reformed system of Government. These ideals were not subsequently reached by the Government of India Act, 1919, and it must therefore be plainly stated that the present system of Government is not regarded as satisfactory by the members of this Chamber. But, however, this may be the scheme of Government, as drawn up by the Government of India Act, 1919, undoubtedly showed promise of success, if fairly worked, and was accordingly accepted with all loyalty. Any doubts as to its working were met by the fact that in fixing a period of ten years for the trial of the scheme, with a promise of revision in 1929, Parliament had ensured that the experiment would be given a fair trial and would not be hastily judged at too early a stage in its course.

These anticipations have unfortunately not been fulfilled. The scheme has met with determined opposition from the day it came into operation and it has certainly not been given a chance to prove itself.

In these circumstances it is entirely premature, at this stage, to form an opinion as to its success or failure.

My Committee are of opinion that improvements can be effected, within the terms of the Act, by adjustments in the system of working but they are emphatically and entirely opposed to the introduction, at this immature stage of the experiment, of any change in the terms of the Act or of any alterations in the rules, save those which would assist in the smooth working of the Act.

It is not necessary for my Committee to touch on the present unrepresentative electorate. The facts concerning this are notorious and it is not possible to effect any real improvement until the universal spread of education makes India ripe for an electoral system which has been forced upon her at a time when she is unprepared for it.

But it is necessary strongly to emphasise the need for maintaining the communal system of the representation of minorities which the unassailable logic of India's present circumstances has rendered indispensable.

In this connection the claim for the representation of European commerce on the Legislative Assembly must again be given prominence and in urging adequate representation for this important interest my Committee desire to make it clear that there must be no diminution in the already inadequate representation of the European community.

As far as may be consistent with the recommendation herein made that there should be no change in the terms of the Government of India Act, my Committee again advance certain recommendations which they put forward in November 1918, and the need for which is, in their estimation, even more pressing now than it then was. They then wrote :—

"*Financial devolution of Provinces.*"—"The conclusions arrived at in the (Montague-Chelmsford) Report as to the necessity for the financial autonomy of the Provincial Government, the complete separation of revenues and the abolition of divided heads have the support of the Committee but the methods suggested for meeting the deficit in the Imperial Budget in paragraph 206 of the Report are felt to be most inequitable and the Committee are of opinion that some better method of arriving at a settlement must be devised whereby any one province will not be unduly favoured at the expense of others. A *per capita* basis seems the fairest solution."

"*Provincial Legislatures.*"—The Committee of the Chamber are of opinion that the Report has entirely ignored the strong and irresistible claims of the European Community to representation on the Provincial and Imperial legislatures in their own right, in the right of their material interests in the country, which are admitted to be out of all proportion to their numerical strength, and in the right of the part they have played and must continue to play in the maintenance of peace and prosperity in India.

The Community, as such, cannot be adequately represented merely by the medium of specialised bodies such as Chambers of Commerce. These bodies merit and must claim separate representation but not at the expense of the Europeans at large. Indeed with the introduction of enlarged Councils the claim of Chambers of Commerce to proportional increased representation is essential, not only in the Provincial Council but in the Imperial Legislative Assembly.

The suggestion that the European Community should be represented by nomination—itself a temporary expedient which it is avowedly intended to abolish—cannot find acceptance for a moment. Communal representation, in spite of all that the authors of the Report say against it, is absolutely necessary and my Committee strongly recommend that this fact should be recognised and arrangements made for the adequate representation on the Provincial and Imperial Councils of Europeans, Anglo-Indians, Parsees, Indian Christians and other minority communities.

In amplification of these remarks it may be said that the European Chambers of Commerce, while representative of European Commercial opinion

do not represent European communal opinion. These Chambers include Indians in their body and in many of them a certain proportion of Indians is on the Committee of the Chambers. The need for the separate representation on the Legislative Assembly of European Communal interests and of European Commercial interests is therefore clearly established. This need has been recognised, though inadequately, in the case of the Provincial Councils and the case for the extension of this principle to the Assembly is, in the opinion of my Committee, irresistible.

Memorandum of the Hindustan Chamber of Commerce, Cawnpore.

The Committee of the Hindustan Chamber of Commerce, Cawnpore, are desirous of placing before the Reforms Enquiry Committee their views on the subject of the Constitutional Reforms in India.

1. The Committee of the Chamber note with regret that the scope of the reference to the Enquiry Committee is apparently very much restricted, and, on the face of it, the terms of reference appear to be a reproduction of what Sir Malcolm Hailey stated in the Legislative Assembly to be the object of appointing such a Committee.

2. It cannot be denied that there is a widespread discontent among Indians with their present political status in their own country, and, that the reforms introduced by the Government of India Act, 1919, have been found to be insufficient and unsatisfactory, and that with growing political consciousness in the country there is almost an universal demand for further progress.

The Committee of the Chamber venture to think that wise and broad-minded statesmanship requires that the discontent and the feeling of disappointment should not be allowed to grow any longer by withholding further reforms or by taking a stand on the letter of section 84 (A) of the Government of India Act ignoring its spirit and object.

3. The section, as interpreted by competent lawyers, and, by the then Secretary of State, Mr. Montagu, in the House of Commons, does not provide any statutory bar against the appointment of a Royal Commission, before 1929, in order to make recommendations for further progress in reforms and to extend the degree of responsible Government.

It is well known that the system of dyarchy established by the Act in Local Governments without introducing any element of responsibility to the Legislature in the Central Government was treated even by the framers of the Montagu-Chelmsford Report (the basis of the Government of India Act) as only a transitory device to introduce, for the first time, the principles of the Responsible Government in India in accordance with the declaration made in Parliament in August 1917.

It is also true that at that time it was considered by the framers of the Act that a period of ten years was a reasonable period for giving trial to the novel system of dyarchy. But experience has shown otherwise. The trial has been made and the system has been found to be defective and unworkable. The Committee of the Chamber are not aware of any positive evidence to show that the system has worked satisfactorily in any province. If it worked temporarily better in one Province than in the other, it was not because the system was found suitable or satisfactory but because the Governors in their respective Provinces according to their individual temperament or predisposition did or did not enforce a clear cut dyarchical system but rather worked on the system of a joint cabinet and joint responsibility.

4. There is a consensus of opinion that time has come that the Provincial Government should be made wholly responsible to the Legislature with a cabinet system of Ministers. This can only be done by amending the Act itself and not by amending the rules only—as section 45 (A) of the Act does not contemplate the transfer of all subjects to the administration of the Governor acting with Ministers.

5. The Committee of the Chamber note that the terms of reference to the Enquiry Committee restrict its powers to making suggestions consistent with the structure, policy and purpose of the Act by (*a*) action taken under the Act or Rules made thereunder or (*b*) by such amendments of the Act as appear necessary to rectify any administrative imperfections.

The Committee of the Chamber, however, venture to submit that reading the preamble and section 84A of the Act together it would not be inconsistent with the policy and purpose of the Act to grant autonomy to Provincial Governments by amending the Act. It is not quite clear what is meant by "the structure" of the Act apart from its policy and purpose. Further the Committee of this Chamber are of opinion that the amendment of the Act for the purpose of introducing full responsible Government in the Provinces is necessary to rectify the administrative imperfections experienced in working the system of dyarchy—itself a crude and imperfect form of administration dividing the Government into two halves which can not work harmoniously.

6. As a corollary to the transfer of full responsible Government to the Provinces, the Governor acting with his Ministers should have full control over the services under them. This is necessary even now to secure good administration under the present system.

7. The Committee of the Chamber feel strongly that side by side of the extension of responsibility in Provincial Governments, it is absolutely necessary to introduce responsibility in the Central Government so far at least as the Civil administration is concerned excluding for the time being the Military, Political and Foreign Departments, and that the power of interference by the Secretary of State should be very materially curtailed and should be confined only to the cases where Imperial interests may be involved and save in the latter case, the Secretary of State should not intervene in matters of purely Indian interest when the Government of India and the Assembly are in agreement.

8. Without prejudice to the opinion above expressed as regards the absolute necessity of amending the Act with the object of making the Provincial Governments fully responsible to their Legislatures and of making the Central Government responsible to the Legislative Assembly in all subjects of Civil administration, and, assuming, for the sake of argument, that recommending such amendments of the Act would not strictly speaking fall within the purview and scope of the terms of reference to the Enquiry Committee, the Committee of the Chamber would suggest that all advance that is possible under the Act should be made without further delay and for this purpose,

(*i*) The rules under section 19A should definitely provide for relaxation of the control of the Secretary of State in order to give

effect to the recommendation made by the Joint Committee that except in special circumstances the Secretary of State should not interfere in matters of purely Indian interest where the Government and the Legislature are in agreement.

(*ii*) The rules should also provide that in Financial matters except those affecting materially any Imperial interest or obligations lawfully incurred by the Secretary of State, the Government of India should be free of the control of the Secretary of State so that no previous concurrence of the Secretary of State in Council as required by section 21 of the Act, be necessary.

(*iii*) Under rules framed under section 45A more Provincial subjects should be transferred to the control of Ministers and the subjects transferred should be transferred as a whole and no part of the same subject should be kept as "Reserved" unless the part reserved be really a central subject.

(*iv*) The rules should also relieve altogether the Provincial Governments from making any contribution to Central Government or should at least reduce the proportion now fixed.

(*v*) The Finance Department should be so regulated as to allow the Ministers to have a share in its control.

(*vi*) The Public Services of the Province should be left under the control of the Governor in Council, but those relating to Transferred subjects should be under the control of the Governor acting with his Ministers.

(*vii*) Under section 49 (2) the rules made by the Governor should be so framed as to ensure joint deliberation and discussion of all subjects whether Reserved or Transferred by the whole Cabinet including the Ministers and the Budget should be framed after full joint discussion so that Transferred subjects may not be allowed to starve.

(*viii*) In section 67(B) the words "or interests" should be omitted as they do not find a place in section 67 (2-A) or at all events they should be replaced by words of a more definite import than the word "interests" which is rather too vague and too wide.

(*ix*) No items of the Budget should be excluded from submission to the vote of the Assembly or Legislative Council, the Governor General and the Governors respectively reserving powers of certifications in case of urgent need.

(*x*) The powers of the Secretary of State in Council as regards making rules regulating the classification, recruitment, conditions of services, etc., should be delegated as provided in section 96B (2) of the Act and a Public Service Commission may be appointed under section 96 (6) of the Act.

The 14th August, 1924.

H431HD

Memorandum by Mr. Harkishan Lal, ex-Minister, Punjab.

Dated Lahore, the 9th August 1924.

From—Mr. Harkishan Lal, Bar-at-Law, 7, Ferozepore Road,

To—The Secretary, The Reforms Enquiry Committee, Simla.

Notes on the working of the Reforms Act, 1919.

I observed the following difficulties in the working of the Government of India Act 1919 and rules thereunder :—

I. *The Punjab Council.*—This Council has no party organisation on political or social basis but is divided into religious groups, with an under-current of urban and rural rivalry, exactly in proportion to the idea underlying the fixing of franchises.

II. The two Ministers were therefore appointed in 1921 as the representatives of the two leading communities, one a majority and the other a minority, the third the Sikh community had to be satisfied with their representative in the Revenue Member of Government being a Sikh. These two Ministers at the time of appointment had not technically the representative character, tut were appointed being prominent public men. The one Minister representing the majority gradually came to hold the position of a real representative of the most numerous section of the Council and thereby the position of the 2nd Minister became untenable and quite unreal; and now a claim is being put forward that both the Ministers should in future be Mohammadans.

III. The opposition in the Council was originally on the basis of rival candidates for honours from the two communities which contributed the Ministers; but gradually it was left in the hands of the Hindu Leader, as the Mohammadans consolidated, thus making Mohammadans a permanent party in power (more or less in alliance with the official block) and the Hindus in permanent opposition always in a minority; with an ambition in several members of the community to occupy positions on the right hand of the speaker.

IV. The Law as it stands provides no Cabinet Government; there is no single policy, and no joint action in the administration; and excepting for a desire to continue in office for working out the reforms or for lesser dignified motives, no Minister could hold office without the support of the official block, which amounts to a negation of responsible Government.

V. There have been at times as many as 5 Local Governments in the Province of the Punjab. Governor of a Province now has more powers than in pre-reform days, being less under supervision, direction and guidance of the Governor General on one side; the Councils and the Ministers being powerless to check him on the other side. Further the Governor being solely responsible for services creates a somewhat undignified position for the members and Ministers.

VI. In financial matters the transferred subjects are entirely at the mercy of the Finance Member, and of the Finance Secretary or the Finance clerk

whoever at the time may be exercising authority and using discretion; and therefore transferred subjects not likely to make much progress which acts to the discomfiture of the Ministers in particular.

VII. Influence in the Council has been seen in proportion to the "patronage" that any member of the Government could put on his side.

VIII. The bifurcation of Provincial subjects into Reserved and Transferred has served no useful purpose; and has prevented a more useful grouping; and the members and the Ministers have not been in charge of the best that they could handle. The personnel on the two sides of Government has shown no distinguishing features; and the treatment of subjects by the Governors, by the Council, by the Secretaries has been on the same level and in the same style.

IX. There has been some time in power (as if he was a member of Government more powerful than any of the others) in the position of the Chief Secretary; and the reservation of certain subjects specially for the Governor is a negation of the desire to develop responsible government.

X. The Secretaries have enjoyed under the rules pre-audience of the Governor; and on account of unavoidable frequent transfers proved of no material use to the inexperienced (?) Ministers. The Under Secretary system of England might improve matters.

XI. It was also felt that the financial and legislative powers of the Local Government being limited, progress in matters of Tramways, Electricity, Co-operative Institutions and communications was much restricted.

XII. Some conflict of interest was noticed in legislating about Tramways and Local option between the Government of India and the Local Government.

XIII. The Communal basis of representation presented two other features requiring attention:—

(*a*) In both the Local and Central representations very large areas have to be canvassed and it is difficult for people to form any opinion about their candidates and the members could not be in touch with their constituencies; and conflicting views could be put before the electors from different communal platforms.

(*b*) In the Central Councils Provincial representation looks like communal rather than provincial.

XIV. The present system of dyarchy in the local Governments, and the selection of members of Government in the Central Government make it well-nigh impossible for such Indian Members to represent public opinion or to be able to lead the same; and further from this point of view their number is much too small.

XV. The financial arrangements of the Local and Central Governments, *i.e.*, provincialising of the rural revenues and centralising the urban revenues (the Income and Super taxes) suggest very undesirable competition and rivalry; and creation within the provinces of what may be called irresponsible functionaries such as railways and Income-Tax collectorates.

XVI. It is felt that the present arrangements of services and the special privileges enjoyed by the Civil Service of India stand in the way of free development of responsible institutions; and prevents handling by experts some of the Scientific Departments.

XVII. Another bar to the development of responsibility is the fact that all resolutions are mere recommendations and their position with regard to transferred or reserved subjects is the same. The acceptance and carrying out of the resolutions depends on the Local Governments assisted or otherwise by the financial department.

XVIII. The working rules of the Punjab Government provide that the difference of opinion between members of Government and the Heads of Departments has to be referred to the Governor and when differing from Heads of Departments members of Government are to write suggestions and not orders.

Memorandum by the Hon'ble Sir John Maynard, Member of the Executive Council, Punjab.

I.—Interference of the Government of India and limitations upon the financial and legislative powers of the local Government.

1. Following the precepts of the Joint Parliamentary Committee, a bill had been framed for placing on a statutory basis the procedure for assessment of land revenue. It was a question to which the agricultural representatives attached the highest importance. A Committee of the Council had discussed the proposal of Government: it fell much below their expectations, but nevertheless might possibly have been accepted as a compromise. The Central Government however was unwilling to endorse the proposals of the local Government, and the bill has not so far been brought forward. The measure necessary to balance the provincial budget—the raising of the occupiers' rates—has now been taken by executive action; but the effect of this step, combined with the confession of the inability of the local Government, to put forward a Land Revenue Bill, has been to put some strain on the allegiance of the rural party.

2. In the case of the Punjab Local Option Bill, the Government of India pointed out that, as the definition of liquor included foreign liquor, the sanction of the Governor General under section 80 A(3) (*b*) was required. It was stated that the Governor General would have no objection to the bill if its scope were limited to country liquor. After some correspondence the Punjab Government modified the bill by providing that it should not be applicable to foreign liquor, but that the Collector should be prohibited from granting licenses for the sale of foreign liquor in any area to which the local body concerned had applied total or partial prohibition, if the local Government were satisfied that the object of the local body's action was being evaded by the sale of foreign liquor. The assent of the Governor General to the bill in this form was given.

3. Section 21 of the Village Punchayat Act, 1921, provides (subject to certain powers of the Collector in case of illicit distillation) that no license for the sale of an excisable article shall be granted in any village, if the Punchayat, by a resolution, confirmed by the adult ratepayers, prefers objection to the grant of the license. In conveying the assent of the Governor General to the Act, the Government of India commented upon the potential effect of this section upon customs duties, and pointed out that it required the previous sanction of the Governor General for this reason; but said that His Excellency had been pleased to waive the objection to the want of sanction, and to assent to the Act, on the understanding that it was not the practice to issue licenses for sale of foreign liquor in the areas to which the Act would apply. These three bills have been the only instances since the institution of the reformed administration in which there has been anything like a difference between the Government of India and the Punjab over the preliminary assent to the introduction of bills. In two of the cases, those which affected the

transferred departments, the local Government has ultimately had its way. In a third, which affects the reserved department of Land Revenue the question at issue has not yet been decided, but there has been some delay, inconvenient to the local Government.

4. In a fourth case, that of the Provincial Tramways Bill, the stage hitherto reached has been that of preliminary discussion with the Railway Board, which is concerned to provide against competition by Provincial Agricultural tramways with broad guage railway lines existing or potential. Provincial legislation for tramways has been contemplated for some time. A bill has been drafted and has been scrutinised by the Legal Remembrancer, and now awaits final polish. It was not previously pressed, pending a compromise with the Railway Board on the "reservation clause" which they would, we were told, have insisted on, including in some form in our bill. The object of legislation is two-fold. Firstly under rule 6(*d*) of Part II, Schedule I, Devolution Rules, tramways are only a Provincial subject if provision is made by provincial legislation. Secondly, and consequently till we have our own Act, every order authorising the construction of a tramway has to be submitted to the Governor General in Council for approval. Once we have our own Act we can, subject to such general restrictions as the Governor General in Council may make us include in it issue orders ourselves. It is understood that the Minister regarded provincial legislation (so long as we were discussing the "reservation clause" with the Government of India) as of sentimental and academic rather than as of practical interest. Provided the Railway Board agreed to any particular project (and it was and is unlikely that they would ever give us *carte blanche* under provincial legislation) we could for our pioneer projects proceed just as well under the Indian Tramways Act, 1886. There was some feeling against what appeared to be obstruction and procrastination on the part of the Railway Board over the reservation clause. But it was recognised that the temporary opposition was not opposition so much to provincial legislation, as on a matter of principle, *i.e.*, as to how far the vested interests in projected tramways could be allowed to block future possible railway development. The feeling was that the local Government should be allowed greater discretion to accept such a risk, and that if it thought that a tramway now with, as a probable corollary, no railway for 30 years, was better than a problematical railway ten years hence, it should be allowed freely to elect for the former.

5. As regards particular projects of tramway construction, there were five such, which the Punjab Government desired to see put in hand at an early date. The Railway Board agreed to four of these. In regard to the fifth, it was decided that the views of the proprietors of the broad guage railway line, with which the tramway would be in potential competition, should be ascertained, before further steps be taken. It appears to be natural and inevitable that the vested interests of others, whether other authorities of joint-stock companies or private persons, should be taken into account when embarking upon projects for the improvement of communications. On the side of the Railway Board it was agreed that certain classes of agricultural tramways, when constructed, should be immune from competition by the construction of new broad guage railways within 30 years; and that certain others should be bought

out by the Railway Board, in the event of the construction of competing railways; stipulations would appear to solve the conflict of interest in an equitable manner.

6. It has also been recently suggested in a public statement that the limitation of the financial and legislative powers of the local Government affected progress in such matters as Electricity, Co-operation and Communications. There has been no question of legislation in respect to any of these matters. Legislation on Electricity is the function of the Indian Legislature under the Devolution Rules.

7. Hydro-electric development has been held by the Governor of the Punjab to be a transferred subject. Co-operation and Communications are the same. The restrictions on expenditure relating to transferred subjects are contained in No. 27 of the Devolution Rules and in Schedule III. They consist mainly in limits upon the salaries of officers to be entertained in a transferred department, and on expenditure on imported stores or stationery. No instance is known in which these rules have operated to hamper developments in electricity, co-operation or communications. No instance has occurred in which the local Government has failed upon application to obtain advances from the Government of India for capital developments under these heads. What has tended to check developments or to discourage proposals for such developments has been the financial stringency from which the local Government has suffered during most of the post-reform period.

II.—Control of the Minister by the Governor.

8. It has recently been stated, in a public manner, that a Minister cannot introduce any measure however much it may be desired by the majority of the Legislature, unless the Governor allows him to do so. It is possible that what was really meant was that the Governor had the power of withholding his assent from a bill passed by the Council at the instance of the Minister. This power has not been exercised, and I am aware of no reason for the suggestion that any occasion has arisen on which it was likely to be exercised. If the writer meant that the Governor has the power of overruling a Minister, the statement is, of course, true, but it is put in a form which suggests the existence of some special power in regard to the institution of legislation which the Governor does not in fact possess.

9. The suggestion that a Minister lacks power because it is possible for a Governor to overrule him, appears to ignore the existence of the weapon of resignation. The truth is that the real power of any constituent part of a composite Government, such as the Government of a Province under the reforms, depends upon the ability and industry which he brings to bear on the formulation of his plans, and upon the courage and determination with which he presses them. Subordinates, often highly skilled, subordinates with expert knowledge, must be listened to; and, if their views are not accepted, they must be overruled. Colleagues, financial and other, must have their say, and, under a completely unitary system of Government by Ministers, uncontrolled by the veto of a Governor, such colleagues would still have their say and would have to be persuaded over if they differed. In the long run, if the functionary concerned feels certain that he is right, it is for him to insist; and if insuperable obstacles are still placed

in his way, it is for him to resign and tell the public why he does so. To tender, and not to insist upon, a resignation is an ineffective procedure. But if he insists upon resignation, and if he has good reasons for it which he can communicate to the public, the colleagues who have pushed him to this extreme step will be the political sufferers.

10. It has recently been suggested that the reservation of certain subjects specially for the Governor is a "negation of the desire to develop responsible Government". It is presumed that the reference here is to the tabular statement covering eight foolscap pages of print, which issues periodically as a matter of office convenience, to regulate the distribution of subjects primarily between Secretaries and thereafter between the Members of Government. This statement shows through which Secretary and to which Member each class of case is to be submitted. Certain Provincial and certain Central subjects are shown as going to His Excellency the Governor. Some of these are outside the sphere of the Governor in Council altogether; for instance, relations with Native States and Political charges, and work connected with the Legislative Council, which belong to the legal and constitutional sphere of the Governor himself. The only remaining matters of importance are those connected with the Services, in connection with which the Governor has certain special functions, under the Royal instructions for his guidance and under No. 10 of the Devolution Rules.

11. But the fact that the tabular statement in question assigns certain subjects to particular Members, does not in any way affect the right of a Member or Minister to call for papers in another department (so long as he does not seek to intervene in matters for which the Governor as such is solely responsible, and not the Governor in Council or the Governor acting with a Minister), or the working of the practice of joint consultation of the Governor in Council sitting with Ministers. There are masses of business to be dealt with, much of it of a purely routine character, which raises no question of policy, and it is essential to the working of the machine that particular subjects should be allotted for office convenience to particular Members of Government.

III.—Joint consultation of Members and Ministers.

12. Prior to June 1924 certain intervals elapsed without joint consultation. There was one such interval of 2 months due in part to the touring of Members and Ministers and in part to the move of Government to Simla from Lahore. Except during these intervals, there was frequent joint consultation, but there were no regular prescribed dates for it. At the present time (since June 1924) there is joint consultation of Members and Ministers every Friday, lasting from 2 to 4 hours. At this every Member or Minister brings up questions which he thinks suitable for discussion; and important cases are also brought up under the orders of the Governor.

13. The particular case of the prescribing of proportions for the admission of members of different communities to certain educational institutions was not discussed jointly. Nor were certain cases in which the alteration of the constitution of certain Municipalities was proposed. It is these particular cases which have given rise to all the talk about neglect of joint consultation in the Punjab.

14. In addition to formal joint consultation of Members and Ministers sitting together, there has always been a good deal of circulation of papers. Statements of the cases disposed of by each Member and Minister are circulated to all the rest, so that each knows what the other is doing. Important files are also circulated for opinion. Among papers so circulated, are all projects of legislation and proposed bills. There has also been a good deal of informal consultation of Members and Ministers.

15. During the first three years of the Reforms, there were occasions when a Member and a Minister sitting together arrived at important decisions on question of urgency, in the absence on tour of the rest of the Government. I recollect one such important decision on a matter affecting the Sikh problem in November 1921. It was arrived at by the Minister of Agriculture and myself. The Minister of Agriculture and I also conducted jointly certain conversations with Sikhs in November and December 1922, with the object of finding a solution of the differences regarding shrines legislation.

16. My own impression of the relations between Members and Ministers and between Minister and Minister during the lifetime of the first Council is that they were most cordial and friendly. There were only three cases in which the Ministers stood together as against the Executive Councillors. In one case the Ministers were agreed together in taking a more uncompromising view of the obligation of maintaining law and order than the two Executive Councillors were prepared to take. On a second occasion, during the preparation of the budget of 1923-24, the Government of India declined to finance a substantial deficit, and reductions had to be made. The Ministers stood together against the Finance Department in objecting to reductions in the transferred departments. The matter was temporarily arranged by consent of all. Then a further demand for the reduction of expenditure by some 60 lakhs was made by the Government of India. The Governor sitting with his Members and Ministers commissioned the Finance Member to select the items for reduction with the result that proposed expenditure in all departments was drastically curtailed. Neither Minister protested against this. On a third occasion, not of great importance, the Ministers took one view and the Members another on some proposals of the President of the Punjab Legislative Council for the treatment of reports of Select Committees.

17. Sometimes we had the two Ministers standing with either one Executive Councillor or the other against the second Councillor. They stood with the Sikh Executive Councillor against the Member for Finance on the question of a permanent Public Service Commission, which appear to threaten patronage. They agreed with the Finance Member against the Revenue Member on an important question of taxation. They agreed with the Revenue Member against the Finance Member in their attitude towards the elected Standing Committees of the House and the publication of their proceedings.

18. Perhaps the most difficult and troublesome question which has been before Government in these years was the question of the Sikh shrines. There were very numerous discussions with all parties concerned, and a number of projects of law were prepared. Technically the subject was a transferred subject, in the control of a Minister, but questions of law and

order were closely involved. The unitary character of the administration can best be gauged by the manner in which this group of problems were dealt with. Up to November 1922 when the Gurdwaras Bill which ultimately became law was introduced into the Council, no difference of principle revealed itself between the members of the Government. This was not because there was no joint consultation, for there were very frequent meetings and discussions between all of us on the subject. If there had been differences, they had not been stated, and it is natural to assume that when a man does not say that he differs he does not attach enough importance to the difference to contest the point. The Bill of November 1922 was in all essential particulars identical in principle with that of March 1921, though in one or two points of detail slightly more favourable to the contentions of the reforming Sikhs. On the bill of March 1921 no differences between the Members of the Government had disclosed themselves. But when the bill of November 1922 was introduced, two changes of circumstance had occurred. On the one hand the claims of the reforming Sikhs had risen for reasons into which it is unnecessary to enter here. On the other hand the differences between the Muslim and Hindu communities, quiescent before, had become acute and had culminated in destructive riots. Hindus, alarmed, were looking for an ally, and held out to Sikhs the hope of a favourable settlement by consent. Hindus and Sikhs combined to resist Government's bill, the former because it went too far, and the latter because it did not go far enough; and feeling was so strong that it became extremely difficult for any man to stand against the sentiment of his own section of the community. In the voting on the Bill, there was a division between the members of Government. One Executive Councillor and one Minister voted for the bill. One Executive Councillor and one Minister abstained from voting. But the two latter did not feel strongly enough on the subject, when the bill passed, to resign their posts, and they continued to co-operate cordially with the other members of the Government in the measures, which were at once resumed, for bringing about a settlement of the Sikh question.

19. The best illustration that I can give of the mutual relations between the Ministers is drawn from the debate in 1923 on the vote of censure directed against the Muhammadan Minister for Education, on account of his communal policy. Very strong feeling was aroused by this debate, but the Hindu Minister recorded his own vote against the censure. A man is to be judged by his actions, and it is a natural inference from this incident that the Minister for Agriculture, though probably disliking the communal policy of his colleague in the Ministry, felt that the matter was not one on which it was desirable to split the Government or either to resign himself or to force other resignations. It will be remembered that the same Minister had abstained from voting on the Gurdwaras Bill.

20. Dyarchy, in the sense of two Ministers standing together for one policy or for one set of policies, and Executive Councillors standing together for another, has been in my experience non-existent, and is, according to my conception, impossible. A House divided against itself cannot stand. Differences between colleagues must be adjusted, and sometimes one, sometimes the other, must yield a part of his convictions to secure agreement unless he is prepared for resignation. But there is a sense in which dyarchy is

possible and has existed. That is to say there has been one group of subjects in which the Legislative Council has exercised a closer control, partly because they were administered by Ministers whose continuance in office is ultimately dependent upon their power to command support in the house and partly because the special powers which are vested in the Governor in respect to financial provision for reserved subjects are not vested in him for transferred subjects.

IV.—Relations of the Finance Department with Ministers.

21. In the practical working of the provincial finances, the normal assumption (except when measures of retrenchment are under consideration) is that old expenditure of a recurring kind, provided in former budgets, is continued. Only questions of new expenditure, not previously provided for, of new services and new works, come under the examination of the Financial Department. When a department proposes new expenditure, it takes the advice of the Finance Department, and the case, with that advice recorded upon it, goes before the Minister or Member concerned for his orders. The allotment of each department then consists of the provision already made for old expenditure, *plus* any new expenditure provided for under the orders thus passed. This is the manner in which No. 31 of the Devolution Rules is in practice worked.

22. No Member or Minister in the Punjab has yet suggested the replacement of this system by a different one, dividing the admissible aggregate of expenditure among the departments, without reference to the total of old expenditure *plus* expenditure newly sanctioned. Nor would it in fact be possible for any department to expend anything other than the total of these two items, nor would the Legislative Council pass a demand for anything different.

23. The only grievance which can arise in any department, on account of the restriction of the funds at its disposal, is when its proposals for new expenditure do not take effect. This may happen either because of financial stringency or because preference is given to the proposals of some other department. If a Minister has a grievance, because preference is given to other proposals over his own, it is open to him to ask the Governor to decide the dispute. No Minister in the Punjab has yet made such a request; but Ministers have not infrequently given or obtained sanction to new expenditure against which the Finance Department had recorded its advice.

24. The Financial Department is a purely advisory body, and exercises no authoritative functions in dealing with the new proposals of the departments for expenditure. The practice is for the head of the department or Secretary concerned to consult the Finance Department before submitting his proposals for expenditure to a Member or Minister. When the matter goes before the Member or Minister, he generally agrees, but sometimes differs from the advice given by the Financial Department. If he differs, he either overrules the advice or refers the question to His Excellency the Governor, who brings the matter before the Executive Council sitting with Ministers, if he thinks it important enough. Otherwise he settles the question. It is open to any Member or Minister to ask that a financial question be considered in Council.

25. In order to prevent the opinions of the clerical establishment in the Financial Department from coming upon the adiministrative file, it is the practice to keep all discussions in the Financial Department upon separate Financial Department files, and to place upon the administrative file merely the final result of the discussion, in the form of a statement of the advice given by the Financial Department as an impersonal entity. The opinions of clerks are therefore not obtruded upon the administrative Member or the Minister concerned. In urgent cases of no great importance, the Financial Secretary's notes occasionally appear on the administrative file; but a clerk's notes never.

26. In June 1922 the advice of the Financial Department was asked on a proposal to allow an officer of the P. W. D., who was going to England on leave, to spend six months of his time in studying the use of Reinforced Concrete. The Financial Department took exception to a suggestion that he should have a compensatory allowance of Rs. 400 per mensem, but advised that the Secretary of State should give such travelling and other compensatory allowances not exceeding Rs. 400 as might appear to be required by the circumstances. It also advised that the ordinary limit of two-thirds of salary for his pay should not be relaxed. On a further representation to the effect that the officer did not intend to go on leave and that it was therefore desired to depute him to England for six months' study on full pay the Financial Department advised that in view of the financial stringency the expenditure should not be incurred. This was in September 1922. H. E. the Governor however, agreeing with the Minister, decided that the officer should go on leave for three months and should be on deputation on two-third pay for three months more. In August 1923 the Financial Department agreed that the whole period of six months should be treated as deputation on two-third pay. An additional sum of £50 was allowed to him in compensatory allowances. It appears therefore that the object which the Minister had in view in obtaining the deputation of the officer to study Reinforced Concrete, was attained in the ordinary constitutional way, that is by considering, and overruling, the advice given by the Financial Department.

27. I have attached the figures of expenditure in successive years in the five principal transferred departments. In 1921-22, the first year affected by the reformed administration, there was a very marked rise in the expenditure in four of these departments; 20 per cent. in Education, 31 per cent. in Medical, 27 per cent. in Agriculture, 232 per cent. in Industries. The variations in expenditure in Public Health in previous years are such that it is probably incorrect to claim any substantial increase in 1921-22. After 1921-22, the expenditure in the Medical and Public Health Departments rose but little, and that on Agriculture declined slightly. If we compare the figures of the revised budget of 1923-24 with those of 1921-22, we find further increases, in the succeeding years of the reformed administration, amounting to 22 per cent. in Education, and 32 per cent. in Industries. The figures of the current budget contrast as follows with the figures of expenditure in the year preceding the reforms, if we assume that expenditure in England in 1920-21 was the same as in 1921 22, and subtract

from the earlier totals an assumed figure of 4 lakhs on account of European Education.

Heads.	1920-21 (Accounts).	1924-25 (Budget).	Percentage of increase.
Education (Transferred) ..	69,68	105,28	51
Medical	24,40	32,08	31
Public Health	8,66	10,76	24
Agriculture	26,55	33,68	26
Industries	1,98	10,52	426

The only department in which the true increase may be called trifling is that of Public Health. The increases of 35 lakhs under Education (other than European), 7 lakhs under Medical, 7 lakhs under Agriculture, and 8 lakhs under Industries, in a period the greater part of which was marked by financial depression, will not, by a candid critic be termed illiberal.

Expenditure by the Punjab Government in the principal Departments now transferred. (*In thousands.*)

	1917-18.	1918-19.	1919-20.	1920-21.	1921-22.			1922-23.			1923-24 (Revised Budget).			1924-25 (Budget).		
	In India only.	In India only.	In India only.	In India only.	In India.	In England.	Total.	Trans'd.	Res'd.	Total.	Trans'd.	Res'd.	Total.	Trans'd.	Res'd.	Total.
Education ..	44,47	53,56	56,07	72,84	87 55	84	88,39	94,00	5,57	99,57	102,21	6,12	108,33	105,28	6,78	111,28
Medical	9,26	11,67	14,06	23,62	31,62	78	31,80	30,46			32,02			32,08		
Public Health ..	9,81	8,06	9,98	8,37	10,44	29	10,73	9,82			10,01			10,76		
Agriculture ..	13,63	16,84	20,44	26,06	31,40	49	31,89	30,28			30,03			33,03		
Industries ..	44	52	1,56	1,87	6,22	11	6,33	8,60			8,49			10,52		

Note.—The figures for Agriculture include Co-operative Credit.

28. The period of the Reformed Government has been characterised by a very remarkable development in primary education. During the first three years of the Reformed Administration, the number of pupils in primary schools rose from 239 to 351 thousands, an increase of 47 per cent.: and the percentage of persons under instruction to total population is now 4·07 against 2·7 before the Reforms. This increase in numbers has been accompanied by a substantial advance towards the abolition of the inefficient one-teacher schools, which have been replaced, to the number of 1,250, by two-teacher schools. There has been a steady advance in the application of the principle of compulsion, under the enabling Act of 1919. Thirteen District Boards have introduced it in 145 school areas, and sixteen urban self-governing bodies have also adopted it. In a number of other areas, where compulsion has not been applied, societies of parents, organised under the auspices of the Department of Co-operative Credit, have bound themselves, under penalty, to send their children to school for the full four years' primary course. There has been an increase of 18 per cent. in the number of pupils in secondary schools: and of 27 per cent. in the number of girls undergoing instruction of all kinds. The number of teachers trained annually has risen in the triennium from 2,235 to 3,225, that is by 44 per cent. A further movement towards the reduction of illiteracy has been inaugurated by the Ministry of Education in the establishment of schools for adults, of whom there are now over 40,000 undergoing instruction. The aggregate increase in three years in the number of persons receiving instruction is 150,000: nearly twice as great as the greatest increase in any other Indian Province. In the region of Higher Education, the completion of the University Chemical Laboratory, the opening of the Maclagan College for Mechanical Engineering, the establishment of five Intermediate Colleges for men and of one for women, are among the achievements of the Ministry. These facts show what can be done, under a so-called dyarchical system, in a period of financial stress, by a judicious enthusiasm and a courageous perseverance.

V.—*Communal voting in the Legislative Council.*

29. I have made an analysis of the voting in all the divisions which have taken place in the Punjab Council since July 1921, when the practice of recording the names was first begun, with the object of ascertaining to what extent Hindu and Muhammedan members have voted communally. So many Muhammedans even when not actually representing rural constituencies are rural in their sympathies, and so many Hindus when not representing urban constituencies are in some measure urban in theirs, that a division, which is really between the urban and rural interests, sometimes has the appearance of a communal one. After eliminating this source of error, I find that there was no communal voting till August 1922, when the votes on the suggested reamalgamation of the North-West Frontier Province with the Punjab showed a sharp division bteween the two communities. After this the votes were divided, by the communal line, between Hindus and Muhammedans in a number of important, and some less important, divisions; on the Municipal Act Amendment Bill, which was assumed to be favourable to Muhammedan interests, on the Punjab Courts Amendment Bill, which was made the occasion for an attack on the supposed Hinduising tendencies of the High Court in the distribution of patronage on the Sikh Gurdwaras Bill; and on a proposal for the

encouragement of Ayurvedic and Unani medicine, presumably because it was regarded as an invasion of the privileges of the Medical Department which was in charge of the Muhammedan Minister. In the budget session of 1923, the reduction of the Education Minister's salary was moved as a censure on the policy of communal proportions in admissions to Government educational institutions and of communal representation on local bodies. The voting on this was purely communal; and, by way of reprisals, the Muhammedan members opposed, *en masse*, the Hindu Minister's Bill regarding the acquisition of land for industrial purposes, so that this also became a communal question. The University (which has the reputation of being under mainly Hindu influences) was next attacked, and there was a purely communal vote on a proposal to reduce its grant. There was only one other communal or mainly communal vote, in the lifetime of the first Council, on the proposed release of political prisoners.

30. Interspersed with all this opposition between Hindu and Muhammedan members, on the purely communal line, there was a substantial number of divisions in which the line was the rural-urban line (*e.g.*, export of wheat, emoluments of zaildars and lambardars, most of the provisions of the Court Fees and Stamps Acts Amendment Bills, which were regarded as means of averting the enhancement of rural water rates, the Loans Limitation Bill); and yet another considerable number, including the great majority of the divisions on motions for money grants, in which the dividing line was neither at the community nor at the rural-urban distinction.

31. The communal spirit showed itself clearly in the large number of questions intended to elicit information regarding the share enjoyed by each community in Government patronage.

32. During the lifetime of the first Council, the Sikhs (except in matters such as the Gurdwaras Bill and the release of Sikh prisoners, directly affecting their community) did not vote noticeably as a solid party; nor did they appear to be as a whole specially inclined to support Hindus rather than Muhammedans.

33. In the second Council a new feature makes its appearance; a group ordinarily in opposition to Government and always, or almost always, voting against it. This group consists of the Swarajist and Urban Hindus, the Khilafat Muhammedans and virtually all of the Sikhs; occasionally joined by three or four other Muhammedans, who do not owe allegiance to the Minister for Education. On the other side have been the large majority of Muhammedan members and a far smaller number of rural Hindus. In these circumstances the greater part of the voting has not been on communal lines, but rather on the line of Government supporters and opposition. In every case in which the support of Muhammedan rural bloc has been withheld, Government has been inevitably defeated; because the other group has always been hostile.

34. To the general rule, that voting in the second Council has not been communal, there have been some exceptions. On the question of a University regulation, making education a subject for the B.A. degree, on which the Muhammedan Minister for Education was known to have strong views, Hindus and Muhammedans were opposed to one another communally. The same opposition occurred over the demands for grants for travelling allowance for Arts Colleges and Secondary Schools.

35. The rural urban distinction is markedly more in evidence in the second than in the first Council, and the persistent opposition of the Urban Hindus (other than Swarajists) to Government is due to the fact that both the

Ministers represent the rural majority. The Sikhs, whether urban or rural, form a wing of the permanent opposition, for reasons special to their community.

VI.—*Voting by official members of the Legislative Council.*

36. It has not been the practice to allow the official members of the Legislative Council to vote in all cases as they pleased. If that had been the practice, cases might have occurred in which official subordinates would have voted against Ministers. The practice has been, in important cases, to inform official members that they are expected to vote in a particular manner. They have been required to support Ministers, and they have done so.

The only alternative would have been to allow each official to speak and vote as he pleased, but to remove him from the Council, or from his post, if he used his liberty in such a manner as to thwart the policy of Government or of a Minister. This, though possible, would be a clumsy and somewhat violent expedient.

37. The support of the official vote has not in all cases saved a Minister from defeat. The Rent Bill of the Minister for Agriculture was defeated in spite of the support of the official vote, because a large house-owner had persuaded the rural members of the Council that the next step, after interference with the residential rents, would be interference with agricultural rents. The same thing is true of the six cases in which amendments for the reduction of grants in transferred departments have been carried against the Ministers upon division.

38. In cases in which the non-official members of the Council are divided communally there is a natural tendency for the official votes to decide the issue. But this has not always been the case. For instance, in the important divisions regarding the amalgamation of the Frontier Province and the vote of censure on the Education Minister, the result would have been the same without the official vote. The same is true of the divisions on the Punjab Courts Act Amendment Bill, on the resolution of October 22nd, 1923, for the release of political prisoners, on the resolution regarding the University Regulation making Education a subject for the B. A. degree, and on the motions for reduction of certain travelling allowances in the Education Department.

39. I have examined the figures of a number of important divisions affecting transferred subjects, in which the voting was not on communal lines and in which Ministers obtained a majority, to see whether they would have been defeated if no official votes had been recorded. The results are shown below :—

Motion or Resolution.	For.		Against.		Remarks.
	Official.	Non-Official.	Official.	Non-Official.	
That the Panchayat Bill, 1921, be passed.	17	29	0	12	Same result without official vote.
Amendment to amendment reducing grant for Fisheries (10th March 1921).	17	26	0	12	Ditto.
Recommendation for removal of restrictions on export of wheat.	12	40	0	5	Ditto.

Motion or Resolution.	For.		Against.		Remarks.
	Official.	Non-Official.	Official.	Non-Official.	
Amendment moved by Mr. Ganpat Rai to sub-clause 6 (i) of clause 2 of Punjab Local Option Bill.	0	10	17	9	Official vote determined the result.
Amendment moved by Raja Narendra Nath to clause 6 of Punjab Local Option Bill.	0	19	17	5	Ditto
Supplementary grant for Excise (25th February 1924).	17	28	0	16	Same result without official vote.
Resolution recommending withdrawal of a Circular affecting unrecognised Schools (26th February 1924).	0	29	14	22	Official vote determined result.
Amendment to amendment on resolution regarding encouragement of articles made in India.	14	23	0	28	Ditto.
Amendment to same resolution.	13	20	0	32	Ditto.
Removal of liquor shops to tahsil headquarters.	0	15	17	18	Same result without official vote.
Reduction of grant for hill journeys. (Medical).	0	26	16	19	Official vote determined result.
Demand for Rs. 9,79,514 on account of Industries (20th March 1924).	15	27	0	8	Same result without official vote.
Demand for Rs. 1,76,50,000 for Civil Works transferred.	16	20	0	18	Ditto.
Resolution that Military Assistant Surgeons be not appointed to Civil Surgeoncies.	0	35	16	22	Official vote determined result.
Resolution that importation of Military Assistant Surgeons into Civil Medical Department be stopped.	0	36	16	24	Ditto.

VII.—*Action taken by Government upon the Resolutions of the Council.*

40. I attach a statement showing all the resolutions which have been adopted by the Punjab Legislative Council in relation to transferred subjects, and the action which has been taken upon them. It will be observed that there was only one Resolution of importance (that for the appointment of a Committee to report on communal representation in the Civil Services), to which effect was not given by Government. In dealing with this Resolution, regarding which feeling ran high, Government was confronted with the preliminary difficulty of determining in what proportions the members of the proposed Committee should be drawn from each community. The omission of the invited members to accept the invitation was due to acute difference of opinion on this subject.

Resolutions affecting the transferred Departments, passed by the Punjab Legislative Council.

Date.	Terms of Resolution passed or promise made.	Volume, No. and page of P. L. C. Debates	Action taken.	Date of Publication in Gazette of action taken.
14-3-1921	That this Council moves the Local Govt. to take early steps to introduce a Bill overhauling the law relating to Charitable and religious endowments in the Province, and pending the presentation and passing of that legislation, it moves the Governor General to make and promulgate an ordinance on the subject, so that the movement to alter and reform the existing management of such endowments may cease to threaten the peace and good Government of the Province, provided that on the expiry of the Ordinance the jurisdiction of the Civil Courts, or of such Courts as the Bill which it is proposed to introduce may establish, shall not be ousted.	Vol. I, No. 8, pages 371-2.	This resolution, which was adopted with reference to the difficulties over the management of Sikh Shrines, was superseded by subsequent proceedings on the Gurdwaras Bill (*Vide* P. G. Notification No. 13242-Leg. of 20-4-1922.)	P. G. Notification No. 25851 of 22-10-1922.
15-3-1921	This Council recommends to the Govt. to be pleased to invite the attention of the local bodies to the need for poor houses at convenient centres for the incapacitated poor, and for free education, technical or otherwise, for their children.	Vol. I, No. 8, page 388.	The attention of local bodies has been invited to the Resolution, and they have been asked to inform Government of any action taken.	Do.
15-3-1921	That this Council recommends to the Govt. to take the necessary steps to modify Article 833, Civil Service Regulations, so as to provide that all medical certificates granted to Government servants by Registered Medical Practitioners, whose names are borne on the Annual Medical List compiled by the Punjab Medical Council, shall ordinarily be accepted without the countersignature of the Officer-in-chief medical charge of the District.	Vol. I, No. 8, page 402.	Orders have issued :— (*a*) that all heads of offices are authorised to accept without countersignature certificates granted by Medical Practitioners whose names appear in the Annual Medical List; (*b*) that, as a matter of practice, uncountersigned certificates of such Medical Practitioners should ordinarily be accepted by heads of offices unless there are special grounds for not doing so.	Do.

Date.	Terms of Resolution passed or promise made.	Volume No. and page of P. L. C. Debates.	Action taken.	Date of Publication in Gazette of action taken.
18-3-1921	That this Council recommends to the Government that steps be taken, through the medium of a special industrial board, to encourage and promote the manufacture and use of indigenous articles by opening stores and holding regular annual industrial exhibitions and fairs.	Vol. I, No. 9, page 474.	It is hoped to participate in an All-India Co-operative Exhibition in the coming year, and provisions have been made for exhibitions of indigenous articles, and hand loom weaving demonstrations at important fairs in various districts of the Punjab.	P. G. Notification No. 25851 of 22nd October 1922.
18-3-1921	That this Council recommends to Govt. that the principal of local option exercisable by municipalities and district boards, be applied, so far as practicable, to the sale of intoxicating liquors in the Province at an early stage.	Vol. I, No. 9, page 490.	A Local Option Bill has become law.	Do.
24-10-1921	That this Council recommends to the Govt. that a Committee be appointed to consider what special measures should be taken to increase and improve milch cattle in the Province with a view to increasing the supply of milk and ghee.	Vol. II, No. 3, page 338.	A Committee was appointed and reported its conclusions, to which the attention of Heads of Departments was drawn with a view to their assisting towards the attainment of the objects on which the Committee laid stress.	P. G. Notification No. 5432-H. Leg. of 17-2-1922. (See also P. G. Resolution No. 6698, dated 23rd May 1923.)
25-10-1921	That this Council recommends to the Govt. to appoint a Committee consisting of the Minister for Education, the Minister for Agriculture, the Director of Public Instruction, the Director of Agriculture, seven zamindar members of the Council and the mover to report by next session on the educational needs of zamindars.	Vol. II, No. 3, page 381.	A Committee was appointed to consider this question.	No. 5432-H. Leg. Do.
9-1-1922	That this Council recommends to the Govt. to refer to the Standing Committee on Public Health the proposals :— (*i*) that regular training classes be opened at Govt. expense for the training of compounders ; (*ii*) that their emoluments be raised materially ; and (*iii*) that their designation be changed to Medical Assistants.	Vol. III, No. 1, page 29.	The proposal was, as recommended, placed before a meeting of the Standing Committee on Public Health which made certain recommendations regarding, training, pay and designation. The scheme of training proposed is still under consideration ; the proposed designation has been adopted ; but a suggested increase in pay has not been carried out.	Do.
3-8-1922	This Council recommends to the Govt. to recommend to the Govt. of India to remove the restrictions placed on the export of wheat.	Vol. IV, No. 1, page 207.	A recommendation was made to the Govt. of India accordingly, and the restriction on the export of wheat was removed by the Govt. of India on 7th September 1922.	P. G. Notification No. 6574-Leg. of 26-2-23.

Date.	Terms of Resolution passed or promise made.	Volume No and page of P. L. C. Debates.	Action taken.	Date of Publication in Gazette of action taken.
10-11-1922	That this Council recommends to Govt. that a Committee of six members of this Council with an official chairman be appointed to enquire into and report on the question of communal representation in the cadre of Civil Services, both senior and subordinate, and to suggest such remedies as should for ever close the recent Hindu-Muslim controversy which is being carried on in the Press.	Vol. IV, No 5, page 639.	Certain members were invited to serve on the Committee, but did not accept the invitation.	P. G. Notification No. 6574 Leg. of 26 2-23.
23-3-1923	That this Council recommends to the Govt. to appoint a Committee of official experts with majority of non-official members of the Legislative Council under the presidency of the Hon'ble Minister for Agriculture, Punjab, to examine how far overlapping exists among the departments of P. W. D. Roads and Buildings, Irrigation and District Boards, and how far the recommendations of the Sly Committee Report appointed by the Govt. of India for the same purpose can be given effect to in this Province.	Vol. IV, No 17, page 1553.	As a preliminary to the appointment of a mixed Committee of officials and non-officials, an expert Committee is investigating the overlapping of engineering agencies, district by district.	P. G. Notification No. 18768-Leg. of 11-7-23.
20-10-1923	That this Council recommends to the Local Govt.:— (i) that a Provincial Co-operative Bank should be established; (ii) that the Local Govt. should agree to guarantee interest at 6 per cent. on debentures to be issued by the Bank to a total sum of 20 lakhs and for a period not exceeding 25 years from the date of issue thereof provided that the Bank enter into an agreement with the Local Government to redeem the debentures within the period named.	Vol. V, page 94.	The Provincial Co-operative Bank will probably be registered in October 1924. It will be for that Bank to come up to Govt. for a guarantee on its debentures.	The action taken has not yet been notified in the Punjab Gazette.
28-2-1924	That this Council recommends to the Local Govt. that the new University Regulations proposed by the Punjab University, introducing "Education" as a professional and theoretical subject in the B. A. Course, be not approved.	Vol. VI, page 183.	The University has been asked to reconsider the proposed Regulations.	Do.

41. No case has occurred in which the Minister concerned with the subject matter of any resolution adopted by the Council has expressed a desire to take action which has not been taken.

VIII.—*The functions of Secretaries.*

42. A Secretary is not Secretary to a particular Minister or Member of Government but to Government as a whole. It has always been the rule in the Government of India that a Secretary to Government, who differs from the view taken by his Member, has the right of laying his own views before the Governor General. The same principle is embodied in rule 8 of the Punjab Government's rules of executive business which gives a Secretary to Government the right to submit a case at any stage to His Excellency the Governor. In the same way a Secretary to Government in any of the transferred departments has the right of direct access to His Excellency the Governor, and may submit views differing from those which are held by the Minister.

43. No case however is known in which the Chief Secretary, or a Secretary in any but the transferred department concerned unless it were the Secretary in the Finance Department who has the right to lay advice on financial questions before His Excellency the Governor, has made any representation to His Excellency the Governor on any transferred subject.

44. There exists no such thing as a right of preaudience on the part of a Secretary. Secretaries, like Members and Ministers, have particular hours allotted to them, at which they may take work to His Excellency the Governor. It may occasionally happen that a Secretary may mention a case to the Governor which has not yet been seen by the Minister; but that is an accident only, and there is clearly an obligation upon the Governor to safeguard the position of the Minister by requiring the Secretary to take the Minister's orders on the subject. Such an accident, if it occurs, does not reveal a false procedure, but only a temporary lapse, to be provided against in future.

45. With reference to the suggestion that a Chief Secretary has very large and exceptional powers, an interesting opportunity has accidentally presented itself of putting this theory to the test. In order to ascertain certain matters of fact for the preparation of this memorandum I recently wrote to a former Chief Secretary, now retired, and asked him what the procedure had been in making a particular appointment to an office under the control of a certain Minister. In the course of his reply he said that he did not know, and that the Governor was not in the habit of taking him into his confidence on numerous questions. This, as my experience shows, is not a mere accidental experience of a particular officer, but a general and probably inevitable incident of the working of so gigantic a machine as the administration of a Province. It is the business of every member of Government whether a Minister or a member of the Executive Council to draw immediate attention to any case in which his constitutional position has been overlooked, or his legitimate powers in any way invaded. He has his ultimate remedy, for extreme cases, in resignation; a remedy which in the case of a Minister, is likely to be a very effective one; since the subsequent publication of his reasons for resignation, if the reasons indicated that he had received unconstitutional treatment, would be a serious embarrassment to the Governor.

IX.—*Relations between the Ministers and the Services.*

46. In the memorandum embodying for the Reforms Committee the views of certain Punjab political body it was represented that the powers of Minister

over the Services in their control should be complete, subject of course to the right of any member of the Indian or Provincial Services to go up on appeal to the Governor or the Governor General as the case may be. This may have been merely a way of saying that the special protection enjoyed by the All-India Services which were appointed, and may only be dismissed, by the Secretary of State, and the special provisions of No. 10 of the Devolution Rules ought to be withdrawn. If it means more than this (and taken literally it does mean more) it appears to be perilously near to an argument in favour of a "spoils" system, under which each Minister in turn would appoint his own creatures to offices under his control. It is unnecessary to dilate upon the deleterious consequences upon the honesty and efficiency of the Services of such a system. Under any system of Government the permanent tenure of the Government servant (subject to good conduct) and his immunity from political influences and from the results of changes of Ministry must be guaranteed, if any satisfactory standard of administration is to be maintained.

47. No. 10 of the Devolution Rules provides that the authority vested in the local Government over officers of the public services employed in a Governor's Province shall be exercised in the case of officers serving in a department dealing with reserved subjects by the Governor in Council, and, in the case of officers serving in a department dealing with transferred subjects by the Governor acting with the Minister in charge of the Department. There are certain provisos to this rule, requiring the personal concurrence of the Governor to disciplinary action against officers of the All-India or Provincial Services, and to orders for the posting of an officer of an All-India Service. In the table regulating in detail the distribution of business, provision is made for submission direct to the Governor of matters relating to the All-India Services, and of cases in which the protection provided for in rule 10 is invoked or is in issue, whether for All-India or Provincial Service officers.

48. In a recent public statement these arrangements have been described as establishing sole responsibility in the Governor for the services, and as creating a somewhat undignified position for the Members and Ministers.

A Member or Minister would be perfectly within his right in calling for papers on any subject on which Devolution Rule 10 requires his concurrence in the orders passed, and the rule does not establish sole responsibility in the Governor; but assigns it to the Governor in Council or to the Governor acting with the Minister, as the case may be.

49. Rule 7 of the Rules of Executive business made by His Excellency the Governor under section 49 (2) of the Government of India Act provides that *in any case of importance*, in which it is proposed to negative the recommendations of a Financial Commissioner, a Commissioner of a Division, or a Head of a Department, or to overrule the decision of such officer when, acting within his powers, he has passed an order, the papers are to be submitted to the Governor before any orders to that effect are issued by a Member or Minister. These restrictions apply alike to Members and to Ministers. There is a corresponding rule of the Government of India, which makes it obligatory to refer to the Governor-General when a department of the Government of India proposes to negative a recommendation or overrule a decision of a local Govern-

ment. The object of such rule is to ensure that an important decision should not be taken by a single Member of the Government or Minister on his own responsibility. It is a recognition of the weight naturally attaching to a recommendation put forward by the head of a department, and of the necessity of mature consideration when such a recommendation is to be negatived.

50. In the case of one officiating appointment under the Ministry of Agriculture, there is no written record of any consultation with the Minister before the appointment was made. The officer who was at that time Chief Secretary has left the service; but he has been consulted and he writes: "I think it is most unlikely that Sir Edward Maclagan did not consult..... (the Minister concerned) on the point for he was punctilious and generous in his dealings with Ministers". In all other cases of appointments subordinate to the Ministers, except those which would normally be filled by a Head of Department without reference to Government it is certain that Ministers either made the appointments themselves or were consulted and approved the selections. This statement of practice is confirmed by the present Minister of Education who adds: "Whenever I have felt that someone, whether a head of Department, a Member of Government, or the Governor, is trespassing upon my rights, I have brought the matter at once to His Excellency the Governor's notice, and matters have been put right."

51. In one case (motion by the Minister of Agriculture that leave be granted to introduce the Urban Property Rent Regulation Bill) one official member voted against the Minister. The motion was lost by 35 votes to 29, so it would have been lost even if this official member had voted for instead of against it. In this case official members had not been required to support the motion; but they would have been required to do so if the Minister had asked for it. This occurred on August 8th, 1922, and the procedure for deciding whether official members should or should not be required to vote in a particular manner was made stricter after this incident.

52. At the time of the introduction of the Reformed system of administration, official orders issued by circular to all officers, reminding them that they were expected to call upon Members and Ministers. I know that all heads of departments and officials at headquarters complied punctiliously with these instructions. No case is known of any officer omitting to call upon a Minister; but if such a case occurred it was a breach of orders, which would have been suitably dealt with if attention had been drawn to it. I have had occasion to observe the demeanour of officers of my own and other services in their relations with the Ministers. Except in the case of one single officer (and he was one who did not get on very well with his own brother officers) the relations were always good, and sometimes cordial.

53. Prior to the Reforms correspondence took place between the Punjab Government and the Secretary of State through the Government of India, regarding the appointment by the Secretary of State of a cattle-breeding expert for employment in the Punjab. On the introduction of the Reforms, the Ministry of Agriculture considered the scheme and approved it. On a review of the position, however, the Ministry concluded that it would be financially impossible to provide the expert with the staff required and therefore communicated its unwillingness to entertain an expert recruited in England.

In the meanwhile the Secretary of State, acting on the information previously given to him, had selected a candidate for the post. The candidate who had been selected, objected that he had resigned the appointment previously held by him in England in order to take up the Punjab post, and claimed compensation if the latter were cancelled. The Ministry of Agriculture then decided to accept the candidate selected by the Secretary of State. This case appears to be the origin of a statement recently made that the Ministry of Agriculture was threatened with legal opinion and so forth by certain officers.

54. The newly appointed cattle expert resigned almost immediately after his arrival in India; and being called upon to refund his passage money under the terms of his agreement, made a representation to the Secretary of State, complaining that his work was not what he had been led to suppose that it would be and objecting to make the refund. The Ministry of Agriculture explained that it had endeavoured to make the best use of the expert and had sent him to the chief breeding establishment at Hissar to learn the existing conditions. But the Secretary of State, on a review of all the facts, decided that there was no evidence to show that a scheme on the special lines for which the expert had been engaged would have been started if the expert had remained in the Punjab, and found himself unable to agree with the Government of India and with the Punjab Government that the refund of passage money should be insisted upon.

55. The case must have caused some perplexity and annoyance to the Ministry of Agriculture; but it has no feature which might not equally have presented itself to a pre-Reform Government, or to the authority in charge of a reserved department under the Reforms. The gentleman concerned was not a member of any of the services, but was engaged upon a five years' contract. In my capacity of Vice-Chancellor of the University I have suffered a similar experience myself with a University Professor who came out on an agreement for a term of years but left on finding that the conditions were not what he had been led to expect.

56. No other case of similar friction in any department under the Reformed Government is traceable. But everyone with any considerable experience of administration is aware that all officials, whether subordinate or superior, are not equally easy to deal with, and that friction and unpleasantness will inevitably occur from time to time. From such occasional friction and unpleasantness neither Members nor Ministers, nor autocratic nor democratic administrators are exempt. For the extreme cases, where subordinates are concerned, there is always the remedy of disciplinary action. For the rest, there is nothing but patience and good humour and humane handling.

X.—*Patronage.*

57. There has been a recent suggestion, publicly made, that the Government did not act together as an undivided unit in the Legislative Council; that influence in the Council was unevenly divided between the Members and Ministers, in proportion to the patronge which each of them was in a position to command; and that the patronage which some of them commanded included official appointments, honorary magistrateships, water concessions and titles.

58. As regards the first portion of this statement, it is a rule which has never been departed from that Members and Ministers shall not speak or vote

against each other. They are at liberty to abstain from speaking or voting on proposals made by colleagues. But I know only one instance in which his liberty has been exercised: namely when the Honourable Member for Revenue and the Honourable Minister for Agriculture abstained from voting for the Sikh Shrines Bill introduced by the Honourable Minister for Education. I have referred elsewhere in this note to the single exception which has occurred to the rule that in all important cases the official members receive instructions to vote in favour of proposals put forward by Ministers.

59. No case has occurred of a water concession being given to a M. L. C. nor does any practice exist of giving such concessions. The writer who referred to water concessions may have meant that particular local or communal interests were conciliated by the preferential construction of particular canals. There has been in the Council something of a struggle between rival local interests over the question whether the Sind Sagar Doab Project or the Bhakra dam project should have preference. I have taken part in the deliberations of Government over this question, which is not yet settled. The argument which has generally carried most weight is the argument of fiscal advantage. The desirability of conciliating one local or communal interest rather than another has never been put forward, to my knowledge except perhaps during the examination of a witness before the Reforms Committee.

60. It has been truly stated that the Irrigation Department (reserved) has a good deal more influence in the Council than the Buildings and Roads Department of the Public Works Department which is transferred. In the one case members see, before their eyes, great tangible advantages: the production of crops on ten or eleven million acres of cultivation, and a large surplus revenue, going to the reduction of general taxation. In the other case, members see only buildings constructed for official purposes and a road system which is admittedly far from perfect, and a large expenditure with no revenues to be set against it. The position will be changed when the Roads and Buildings Department is able to figure as the beneficent supplier of hydro-electric power at cheap rates to a large portion of the Province. My own observation is that Education co-operation and Irrigation are highly appreciated, and can generally get all that they want, but that the Council looks askance, with varying degrees of suspicion, upon most other expenditure. But these preferences have nothing to do with a corrupt or illicit influence upon individual members.

61. The recommendation of persons for titles and orders is entirely in the hands of His Excellency the Governor, to whom Members and Ministers are at liberty to make their proposals. As leader of the House I must have known of any case in which a title was promised by any responsible authority to a M. L. C. in consideration of his taking a particular line. I am aware of no such case. A knighthood was recently conferred upon a member, who has for many years been the singularly successful unofficial President of a thriving Municipality. It did not prevent him from speaking his mind. He recently told me publicly that I had made a great mistake over a certain measure and that the people were very angry with me about it. The number of non-official members who make a regular practice of voting with Government is extremely small. Even nominated members frequently vote against Government.

62. In 1922 a jagir of Rs. 400 per annum was conferred upon Chaudhri Kharak Singh, Member of the Punjab Legislative Council and Vice-Chairman of the Gurdaspur District Board; a prominent representative of the Dogra Rajputs, who rendered valuable services during the Great War. In the budget discussion in the local Council in 1923 he distinguished himself by his vigorous and detailed criticism of the budget proposals of Government, which was much appreciated on the Government benches. He certainly did not regard himself as in any way committed to the support of Government by the fact that his War services had been rewarded. There has been no Crown land for general distribution since the inauguration of the Reforms.

63. Recommendations for Honorary Magistrateships are made by local authorities, after a certain period of judicial training has been undergone by the candidate. I know of no case in which proposals for such appointments have been initiated by Government, since the beginning of the era of the Reforms. All the proposals for such appointments pass through my hands, and I know of no case in which they have been made the consideration for the adoption of a particular attitude in the Council.

64. With reference to the exercise of patronage by a Member or Minister in the purchase of stores and the giving of contracts, such matters as these have never been centralised in Government whether pre-reform or post-reform. Large questions of principle come before the Member or Minister. For instance, when there was a proposal to give a prolonged monopoly of a particular kind of supply, such as cement or stone ballast, it was referred for the orders of the Minister. It is the Minister only who has power to sanction local purchase of English stores of more than a stated maximum value; but it would be an unusual course on his part, when giving sanction, to say that the purchase should be made from a particular firm. Ordinarily speaking, Superintending Engineers have full power to accept tenders and enter into contracts, and no Member or Minister exercises patronage of that sort in any way.

65. As between the two gentlemen who occupied the position of Ministers in the period of the first Council, it was noticeable that one found it easier to carry the majority of the Council with him than the other. I have already explained that this was not due to any difference in the attitude of official members, who, on all important questions, supported each Minister alike. The reason lay in the composition of parties in the Council, as it gradually revealed itself. As is shown more in detail in another part of this note, in spite of occasional votes on purely communal lines, the cleavage was between rural and urban interests. The one Minister, who was regarded as representing rural interests, was always successful in carrying any division over a question which he really had at heart. The other Minister, who was thought to be identified rather with urban interests, was not equally successful, and suffered at least one severe defeat over a big question, in spite of the support of the official bloc. From the beginning of the second Council, both Ministers belong to the rural section which has a clear majority in the Council, and the one has as good a chance of success with his measures as the other.

Memorandum of the Punjab Provincial Muslim League, Lahore.

I. Advance within the Act is possible only in the sphere of Provincial Government and should be along the following lines:—

(*a*) The distinction between transferred and reserved subjects should be abolished. This would mean the end of Dyarchy. Dyarchy as a tentative measure to suit the requirements of a transitional period has served its purpose, but it is no more in keeping with the political consciousness of the country and the democratic notions and the constitutional practices and conventions which the reforms have brought in their train. All provincial subjects including law, Police, land-revenue, etc., should be placed in the hands of Ministers, responsible to the Legislature. As for the Governor's power of intervention, the League is not in favour of putting legal restrictions thereon, but would constitutionally check it by the establishment of the convention that the Governor shall be guided by the advice of his Ministers, unless where the latter are not supported by the Legislature, enjoying the confidence of the country or properly speaking, the voters. The power of Dissolution already enjoyed by Governors would be a good means of testing whether the Ministers enjoy the confidence of the electorate.

(*b*) The establishment of complete autonomy in the provinces involves the disappearance of the nominated bloc of officials who are in the present condition of things often used for the support of Ministers in measures that do not command the approval of the House, besides being taken away from their duties to attend to council work. The League advocates on wholly elected house with a reserved number of Parliamentary appointments to be filled by Ministers at their discretion from amongst their elected colleagues, so that these Parliamentary under Secretaries might help in explaining and elucidating to the House the policies of Ministers. The latter single handed cannot cope with all legislative business and activity. The present permanent officials who are nominated for this purpose, should be kept to their proper duties and their place should be taken by Parliamentary colleagues (Members of the House) who change with every Ministry. The association of permanent officials directly with an elected house is not desirable. Reasons can be explained orally, if so desired.

(*c*) Whether full provincial autonomy is established or not, it is essential that the powers of Ministers over the services under their control should be complete, subject of course, to the right of any Member of the Indian or provincial Services, to go up in appeal to the Governor or the Governor-General as the case may be.

(*d*) Similarly, as stated in (*c*), Ministers should have complete fiscal freedom and be released from the fetters imposed on their actions by the finance department.

(*e*) Unless and until the entire provincial Government is made responsible to an elected legislature, friction, discontent and deadlocks will be the order of the day. It must be recognised that elections of the future would send in increased members, independent members who would be reluctant to lend their support to a Government which is not responsible to public aspirations and public wishes.

(*f*) The above constitutional changes may in some cases be brought about by the exercise of the rule-making powers possessed by the Government under the present Act, but it is submitted that the structure of the Act contemplates Dyarchy as an essential feature, and if Dyarchy is to go, as is the general desire of the country, the Act must be amended.

II. Full Provincial autonomy cannot co-exist with an wholly irresponsible central Government. The time has come when Government, in a liberal and generous spirit, should concede the introduction of responsibility in the do nain of the central Government. With the exception of the following :—

(1) (*a*) Defence of India, and all matters connected with His Majesty's Naval, Military and Air Forces in India, or with His Majesty's Indian Marine Service or with any other force raised in India other than military and armed police wholly maintained by local Governments.

(*b*) Naval and Military works and cantonments.

(2) External relations, including naturalisation and aliens, and pilgrimages beyond India.

(3) Relations with States in India.

(4) Political charges,

the administration of all other central subjects should be handed over to Ministers responsible to the Assembly, the Ministers to be aided not by the permanent officials as at present but by their colleagues for whom Parliamentary appointments should be provided.

The League would advocate an wholly elected assembly, with no nominated element, either in the shape of permanent officials or experts.

To effectuate this advance, insistently demanded by the country, an amendment of the Act will be necessary. Under the Act, as it stands the introduction of any element of responsibility in the domain of the central Government is statutorily impossible.

And full Provincial autonomy or even extended responsibility in the provinces will be ineffectual unless accompanied by a corresponding measure of responsibility in the Central Government in regard not only to the provincial subjects, the administration of which has been entrusted to Ministers, but also in regard to many central subjects that touch vitally the life of the nation.

III. The amendment of the Act will also be required in the matter of the Council of the Secretary of State. This institution has become an anachronism and should not live a day longer. The Secretary of State for India should have the same position in regard to India as the Secretary of State for the Colonies has for the Colonies. With the High Commissioner for India to transact trade and other duties, the assimilation of the Indian Secretary of State to the position of the colonial Secretary of State has become paramount. The council is a useless and expensive drag and burden and should be abolished. With the establishment of Self-Governing institutions, it cannot be said now with any show of reasoning that the Secretary of State, in the discharge of his responsibility to Parliament, needs the assistance of men associated with the actual administration of the country and possessing a knowledge of local affairs and local needs.

IV. The League is strongly of the opinion that any constitutional advance, that may ultimately be agreed upon, must give effect to the essential provisions incorporated in Resolution No. 11 passed at a general session of the All-India Muslim League held at Lahore on the 24th and 25th May 1924. The resolution is as follows :—

Resolution No. II.—Whereas the speedy attainment of Swaraj is one of the declared subjects of the All-India Muslim League, and whereas it is now generally felt that the conception of Swaraj should be translated into the realm of concrete politics, and become a factor in the daily life of the Indian people, the All-India Muslim League hereby resolves, that in any scheme of a constitution for India, that may ultimately be agreed upon and accepted by the people, the following shall constitute its basic and fundamental principles :—

(*a*) The existing provinces of India shall all be united under a common Government on a federal basis so that each province shall have full and complete provincial autonomy, the functions of the Central Government being confined to such matters only as are of general and common concern.

(*b*) Any territorial redistribution that might at any time become necessary, shall not in any way affect the Muslim majority of population in the Punjab, Bengal and North-West Frontier Province.

(*c*) Full religious liberty, *i.e.*, liberty of belief, worship, observances, propaganda, Association, and education shall be guaranteed to all communities.

(*d*) The idea of joint electorates with a specified number of seats being unacceptable to Indian Muslims, on the ground of its being a fruitful source of discord and disunion and also as being wholly inadequate to achieve the object of effective representation of various communal groups, the representation of the latter shall continue to be by means of separate electorates as at present, provided that it shall be open to any community at any time to abandon its separate electorates in favour of joint electorates.

(e) No bill or resolution or any part thereof affecting any community, which question is to be determined by the members of that community in the elected body concerned, shall be passed in any legislature or in any other elected body, if three-fourths of the members of that community in that particular body oppose such bill or resolution or part thereof.

Resolution No. III passed at the same sessions and reproduced below gives the opinion of the League on the question as to whether the next step in the realisation of responsible Government in India can be brought about by merely a rectification of administrative imperfections and defects seen in the working of the Act or by a complete overhaul of that Act.

Resolution No. III.—That in the opinion of the All-India Muslim League the reforms granted by the Government of India Act, 1919, are wholly unsatisfactory and altogether inadequate to meet the requirements of the country and that the virtual absence of any responsibility of the executive to the elected representatives of the people in the legislature has really rendered them futile and unworkable : the League therefore urges that immediate steps be taken to establish Swaraj, *i.e.*, full responsible Government, having regard to the provisions of Resolution No. II and this, in the opinion of the League can only be done by a complete overhaul of the Government of India Act, 1919, and not merely by an enquiry, with a view to discover defects in the working of the Act and to rectify imperfections, under its rule making power.

PIR TAJ-UD-DIN,
Bar.-at-Law.

Memorandum by Mr. M. Barkat Ali, M.A., LL.B., Vakil, High Court and Vice-President, The Punjab Provincial Muslim League, Lahore.

I. Advance within the Act is possible only in the sphere of Provincial Government and should be along the following lines :—

(*a*) The distinction between transferred and reserved subjects should be abolished. This would mean the end of Dyarchy. Dyarchy as a tentative measure to suit the requirements of a transitional period has served its purpose, but it is no more in keeping with the political consciousness of the country and the democratic notions and the constitutional practices and conventions which the Reforms have brought in their train. All provincial subjects should be placed in the hand of Ministers, responsible to the Legislature. As for the Governor's power of intervention, I would put no legal limits thereon, but would constitutionally check it by the establishment of the convention that the Governor shall be guided by the advice of his Ministers, unless where the latter are not supported by a Legislature enjoying the confidence of the country or properly speaking, the voters. The power of Dissolution would be a good means of testing whether the Ministers enjoy the confidence of the electorate.

(*b*) The appointment of non-official members of the legislature as council Secretaries is not only undesirable but pernicious, as calculated to suppress the freedom of such members as are appointed council Secretaries. The Act need not be amended for this, for the power to appoint is only discretionary with the Governor, and if such appointments are held to be undesirable, no Governor need make them.

(*c*) The establishment of complete autonomy in the provinces would necessitate the disappearance of the nominated *bloc* of officials who are in the present condition of things taken away from their duties to attend to council work. I advocate an wholly elected house with a reserved number of Parliamentary appointments to be filled by Ministers at their discretion, so that these Parliamentary under Secretaries might help in explaining and elucidating to the House the policies of Ministers. The latter single handed can not cope with all legislative business and activity. The present permanent officials who are nominated for this purpose, should be kept to their proper duties and their place should be taken by Parliamentary colleagues (Members of the House) who change with every Ministry. The association of permanent officials directly with an elected house is not desirable. Reasons can be explained orally if so desired.

(*d*) Whether full provincial autonomy is established or not, it is essential that the powers of Ministers over the services under the

control should be complete, subject of course, to the right of any Member of the Indian or provincial Services, to go up in appeal to the Governor or the Governor-General as the case may be.

(*e*) Similarly, as stated in (*d*), the restrictions on the liberty of Ministers imposed by the finance department, should be removed. The provincial cabinet, composed of Ministers and Non-Ministers, must act as one, though I confess that in practice this is impossible in a dyarchical system. Ministers responsible to an elected house and Members of Executive Council, not responsible to an elected house, constitute a team which cannot pull together, and I believe that in the present condition of things, the entire provincial Government must become responsible to an elected legislature, otherwise friction, discontent and deadlocks will be the order of the day. It must be recognised that elections of the future would send in increased members independent members who would be reluctant to lend their support to a Government which is not responsive to public aspirations and public wishes.

II. Full Provincial autonomy cannot co-exist with an wholly irresponsible central Government. The time has come when Government, in a liberal and generous spirit, should concede the introduction of responsibility in the domain of the central Government, with the exception of the following :—

1. (*a*) Defence of India, and all matters connected with His Majesty's Naval, Military and Air Forces in India, or with His Majesty's Indian Marine Service or with any other force raised in India other than military and armed police wholly maintained by Local Governments.

   (*b*) Naval and military works and cantonments.

2. External relations, including naturalisation and aliens, and pilgrimages beyond India.

3. Relations with States in India.

4. Political charges.

The administration of all other central subjects should be handed over to Ministers responsible to the Assembly, the Ministers to be aided not by the permanent officials as at present but by their colleagues for whom Parliamentary appointments should be provided.

I would advocate an wholly elected assembly, with no nominated element, either in the shape of permanent officials or experts.

To effectuate this advance, insistently demanded by the country, an amendment of the Act will be necessary. Under the Act, as it stands, the introduction of any element of responsibility in the domain of the central Government is statutorily impossible.

And full provincial autonomy or even extended responsibility in the provinces will be ineffectual unless accompanied by a corresponding measure of

responsibility in the domain of central Government in regard not only to the provincial subjects, the administration of which has been entrusted to Ministers, but also in regard to many central subjects that touch vitally the life of the nation.

III. The amendment of the Act will also be required in the matter of the Council of the Secretary of State. This institution has become an anachronism and should no live a day longer. The Secretary of State for India should have the same position in regard to India as the Secretary of State for the Colonies has for the colonies. With the High Commissioner for India to transact trade and other duties, the assimilation of the Indian Secretary of State to the position of the colonial Secretary of State has become paramount. The Council is a useless and expensive drag and burden and should be abolished. With the establishment of Self-Governing institutions, it can not be said now with any show of reasoning that the Secretary of State, in the discharge of his responsibility to Parliament, needs the assistance of men associated with the actual administration of the country and possessing a knowledge of local affairs and local needs.

6th August 1924.

M. BARKAT ALI,
Vakil.

Memorandum by Pandit Nanak Chand, Lahore.

(1) I know nothing of the inner working of Dyarchy, and therefore cannot speak about its defects from personal knowledge, but I favour the grant of Provincial autonomy at an early date. I am, however, opposed to the system of Communal representation or separate Communal electorates. In the Punjab communal representation has produced communal tension and bitterness. Communal representation is opposed to the spirit of Democracy, and cannot help in the formation of a nation. Further the organization of communities on a religious basis is bound to produce the most difficult problems for the administration of the Province. For example see the Sikh trouble and the Hindu-Mohammadan tension in the Punjab. The minority communities in the Punjab fully realise that the Mohammadans will, on account of their superiority of numbers in the Punjab, preponderate even if the Communal representation is removed; but they prefer to be ruled by a majority in whose election they have a hand. Friction at the time of election will not be more serious than it is at present amongst the Mohammadans themselves and the Hindus themselves.

(2) If communal representation is adhered to it should be expressly laid down that communal representation is a tentative measure, and the period should be fixed by the Parliament after which it shall be withdrawn. A period of ten years will be sufficient.

(3) The scope of communal representation should not be widened. It should not be applied to Educational Institutions, and the distribution of grants-in-aid as has been done in the Punjab.

(4) If the principle of communal representation is allowed for local Council, it should not be extended to local bodies unless the minority community in any particular Municipal area in the case of Municipalities or in any District in the case of District Board wants it.

(5) And further both in local Councils and local bodies separate communal electorates should be allowed in the constituencies where there is a great disproportion in the population of different communities, but where disproportion in the numerical strength of communities is not marked—say where the proportion is that of 1 : 2 joint electorates with communal proportions fixed for seats should be introduced. This will result in the creation of a centre party with men of moderate views, who will work for removing communal bickerings and strife and will help in the creation of political parties.

II.—Electorates and Constituencies.

(1) The boundaries of the constituencies are very wide. The districts in my opinion should be made the *units*. I am in favour of doing away with the distinction of Rural and Urban constituencies. This arrangement will result in affording greater facilities to the members of the Council to come in with their constituents. The political education of the masses will be thus made more easy.

III.—Extension of Franchise.

I am opposed to adult manhood sufferage. The time is not ripe for it. Franchise should however be extended. Property qualification should be retained but lowered. Persons with educational qualifications should be given the right of vote. Any person over the age of 18, who can show that he has passed some University examination or any examination recognised by the Education Department should have the right to vote. Similarly the right must be extended to women possessing educational qualifications prescribed for men.

IV.—Percentage of Seats in the Legislative Council.

The percentage of seats reserved for the different communities in the Punjab by the Lucknow Compact should be adhered to. If varied it should be varied in favour of the Sikhs. The rule that a minority should not get fewer seats than is required by its proportion in population should not be departed from in the case of the Hindus of the Punjab. Nomination of members should be abolished.

V.—The Cabinet.

(1) Its constitution. The Cabinet should be so constituted that no community preponderates in it. The present mode of giving equal representation to Hindus, Mohammadans and Sikhs in the Punjab in the Cabinet should be maintained. I suggest that the services might be represented in the Cabinet by an additional member. (A few people share this view.)

(2) So long as there is communal representation the Minister selected to represent a community should be acceptable to the majority of the members belonging to his community in the Council. Selection of Minister should rest with the Governor and should be made preferably out of a panel proposed by the members representing the community in the Council.

(3) Every Minister should be made to realise that he is not to rely solely on the support of a majority consisting of his community only. If the members of any community have in some constitutional way given expression to their want of confidence in a Minister, a convention should be established that that Minister is not to be re-appointed for a period of 3 years.

(4) There should be a change of portfolios amongst the Ministers after every 3 years.

(5) In the initiation and working of policies the Cabinet must work as an indivisible whole. Joint responsibility must be strictly enforced. A Minister should be entitled to go into any question with which another Minister deals and should have the privilege of bringing up the matter before the joint meeting of the whole Cabinet.

VI.—The Recruitment of Services.

(1) Recruitment of Services should be in the hands of the Governor. Efficiency of service should be the sole consideration in making recruitment. Appointments should be made solely on merit. For this purpose a Board of Commissioners or a Public Service Commission should be constituted by H. E.

the Governor, equal representation being granted to the Hindus, Mohammadans and Sikhs in the constitution of that Board. This Board or Commission should make rules for open and competitive examination. Literary qualifications need not carry the greatest weight in all services.

(2) This Board should also be given appellate powers for dealing with the grievances of men in the services who feel aggrieved by the order of their departmental officer or superiors.

(3) The fixing of Cadres for each service should be determined by the Ministers or the Cabinet. Such a system will work for efficiency and economy and the power resting in the hand of the Ministers will not be abused for political powers.

VII.—THE GRANT OF JAGIRS AND TITLES: DISTRIBUTION OF CROWN LANDS.

(1) The power of granting, distributing and selling Crown lands should be in the hands of the Governor. Free grants of Crown lands or Jagirs should be entirely stopped except to soldiers who have suffered in war. Recruitment to Army should be thrown open to men of all castes, creeds and religions.

(2) In the grant of titles, the Ministers and the heads of departments through the Ministers should be consulted.

VIII.—ADDITION TO THE GOVERNMENT OF INDIA ACT.

The following provision must be embodied in the Government of India Act and a new section inserted somewhat in the following words :—

No law shall be valid if passed by any Legislature which—

(*a*) affects the religion or religious rights and privileges of any class or community in British India;

(*b*) imposes any civic disability on any class or community of His Majesty's Indian Subjects;

(*c*) denies or disputes the right of the State to the share of the produce of agricultural land within the limits imposed by a Provincial enactment.

Most of the safeguards suggested are needed even if Dyarchy is maintained, and some of them may be embodied in the instrument of instructions to Governors. There should be besides this an instrument of instructions to the Viceroy, on whom should be enjoined the duty of making the Governors comply with the instrument of instructions issued to them.

NANAK CHAND PANDIT, M.A.,
Bar-at-Law,
Member, Legislative Council, Punjab
Secretary, "The Hindu Nationalist Party"
in the Council.

Memorandum by Mr. Gulshan Rai, Lahore.

Dated the 13th August 1924.

From—GULSHAN RAI, Esq., Mohanlal Road, Lahore,

To—The Secretary, Reforms Enquiry Committee, Simla.

I have the honour to submit herewith my memorandum on the working of Constitutional Reforms. I have been Secretary of the Punjab Hindu Sabha for a number of years, am a fellow of the Punjab University, was a co-opted member of the Halifax Reforms Committee in the Punjab in 1920, am a Joint Secretary of the Sanatana Dharma College Society, and am Vice-Principal in that college, teaching History and Political Philosophy.

Memorandum on the working of Constitutional Reforms.

The ministers under the present system of Dyarchy are working under great disabilities, inasmuch as—

1. They have to depend on the nominated and the official block in the Council in order to carry out their policy, and consequently they have to be under the thumb of the official block.

2. They are constantly checked and hampered by the Finance Department. This department under the present circumstances cannot be expected to do justice to the Transferred Departments.

3. The Departmental Codes, which are All-India authorities, stand a good deal in the way of the freedom of action of the ministers.

4. Indian legislation in Transferred Subjects also deprives the ministers of freedom of action.

5. They do not possess sufficient powers of control over the services. The Transferred Departments cannot therefore be run in the way in which the ministers want.

6. They do not possess full powers over expenditure in the Transferred Departments.

7. They possess very little powers in determining taxation.

So long as there are some departments which are reserved for administration by the Executive Council, money must in preference be found for these departments, and transferred departments can never get full justice. So long as Bureaucracy is responsible for the administration of Reserved Departments, ministers in charge of Transferred Departments can never get full powers, and responsible government in the real sense of the word can never be established in provinces. The only remedy against the present disabilities of the ministers is the establishment of full Responsible Government in Provinces.

I recognise all departments cannot be transferred to the ministers unless all interests are fairly represented in the Provincial Legislatures and unless

proper solution is found for the existing communal differences. I agree that unless the Franchise is extended, and unless the Industrial and Agricultural labouring classes get votes, important departments like Land Revenue, Irrigation, Courts of Law, and Factories, cannot be put under the control of the Legislature. But I submit over the existing transferred departments ministers cannot have full powers unless other departments are also transferred to them. In my humble opinion Dyarchy has failed, and the only solution is the establishment of full Responsible Government in the provinces. Communal differences and clash of interests are problems not peculiar to India alone. In western countries too, the differences due to clash of interests between Capital and Labour are real ones. I believe a Constitutional Machinery can be devised by means of which all interests can be fairly represented in our legislatures, and minority communities can be protected against the tyranny of the majority communities. But this would require an amendment of the Reforms Act of 1919. The Indian provinces are in area and population quite equal to first class kingdoms and republics in Europe. I do not think it is proper to govern Indian provinces through one chamber parliaments. I believe with the establishment of provincial autonomy in provinces it will be necessary to have two Houses of provincial legislatures. The Lower House should be elected mainly by general constituencies. Communal representation by means of separate electorates should be abolished. But I believe if the system of Proportional representation by single transferable vote is introduced, the different communities can be guaranteed to have full and adequate representation in the legislative bodies. In the Punjab the Musalmans can under this system have a majority in the provincial council. But to guard against the tyranny of the majority, full and final powers should not be given to the Lower House in settling schemes of taxation, franchise, communal representation in self-governing bodies, and religious and charitable endowments. The final powers in these matters should be given to the Upper House. In this second chamber a separate and adequate representation of all important communities and interests should be provided for. I would suggest that big landlords, industries, commerce, universities, agricultural tenants, industrial labourers, Christians, Parsees, Budhists, Jains, Sikhs, Musalmans, Hindus, and Depressed classes, wherever they form an important minority, should all have separate representation in the Upper House. In this second chamber no one community or interest should have the majority, if in the province concerned the interests of any strong and influential minority requires protection. Besides the separate representatives of different communities and interests, there should be found seats in the second chamber for all the presidents of District Boards, presidents of the municipalities of important towns, retired deputy commissioners, and retired sessions judges or High Court judges. In addition to this the Governor representing the Crown may also nominate a few members for the second chamber. In the Lower House there should be no nominated members, whether officials or non-officials. In the second chamber the nominated members should not exceed 10 per cent., all of whom should be non-officials. To prevent the establishment of Spoil System in this country, and to avoid inter-communal struggles for the monopoly of political power, it would be necessary to exclude the recruitment of services entirely from the jurisdiction of legislatures and ministers. The legislatures and ministers should have also nothing to do with the grant of Jagirs, Pensions, Titles or Crown Lands, or the payment of existing

pensions, or control over High Courts or courts subordinate to them, or with Central subjects. The recruitment of services and the grant of Jagirs, Pensions, Titles, or Crown Lands should be exclusively under the control of the Governor. In all other matters not excluded from their jurisdiction, the provincial legislatures should be supreme. The Provincial Executive Councils should be abolished, and all provincial subjects, not excluded from the jurisdiction of provincial legislatures should be put in charge of fully responsible ministers. The Finance Minister should not be in charge of any department except finance. In the administration of provincial subjects, departmental codes should place no restrictions on the powers of ministers. The ministers should possess full powers over provincial expenditure, and Indian Legislature should not restrict their powers in the administration of provincial subjects. While the recruitment of services should remain exclusively under the control of Governor, the fixing of cadres for each service should be determined by ministers. Transfers and postings should be under the control of Departmental Heads, without any reference to ministers. Grade promotions and other promotions should also be under the control of Departmental Heads, without any reference to ministers. In matters of transfers, postings, and promotions, the Heads of Departments should be under the general supervision of the Governor.

In the Central Government, time has now arrived for the transfer to ministers of all departments, excepting Foreign, Political, and Military. The Indian Legislature should guarantee for the Military Department not less than 50 crores per annum. The Commander-in-Chief should be appointed by the Crown in England; the Foreign and Political Department should as at present remain under the charge of the Viceroy. But all the other departments in the Central Government should be put in charge of ministers, responsible to the Indian Legislature. The Secretary of State for India should possess powers not more than what are possessed by the Colonial Secretary in the administration of other Self-Governing Colonies in the Empire. The recruitment of All-India Services, and their conditions of service should be under the exclusive control of Commissioners of Public Services appointed by the Viceroy. In matters of taxation the Indian Legislature should possess full powers. At the same time a machinery should be devised for the rapid Indianisation of the Army.

GULSHAN RAI.

Letter from the General Secretary, Bihar Provincial Kisan Sabha, No. 42, dated Muzaffarpur, the 20th August 1924.

I beg to acknowledge the receipt of your letter no. D.-2722-Public (Home Department), dated the 15th August 1924, asking me to send my Memorandum of evidence before your Committee.

In reply I beg to submit herewith the Memo. of my evidence on behalf of the peasants (Kisans) of Bihar with a request that the claims of the Peasantry of Bihar will be adequately considered by the Committee.

Memorandum of Bihar Provincial Kisan Sabha.

The Montague-Chelmsford joint report, when published, raised high hopes in the minds of the Peasantry of India. The report shows anxiety for the Rayots. But subsequently came the Southborough Committee. This Committee examined 3 landholders' representatives of Bihar, namely (1) the Hon. Babu Ganesh Dutt Sinha, (2) Rai Bahadur Ram Gopal Sinha Choudhri, and (3) the late Maharaja Bahadur of Gidhour and equal number of tenants' representatives, *viz.* (1) my humble self, (2) Babu Madho Lal, retired Deputy Collector, and (3) the late Rai Saheb Janakdhari Lal. Before the Southborough Committee the landholders pressed for special electorates both in Provincial Council and Legislative Assembly *plus* participations in general electorates whereas we pressed for fair field and no special favour to any community or interest. We opposed special electorates to Zemindars and urged for special electorates for tenants to safeguard and protect the interest of poor tenantry. We were subjected to long cross-examination. But the result was unexpected. The report of Southborough Committee was published and then came the Government of India Act and the rules thereunder. Almost all our contentions were rejected by the Government and the Southborough Committee and the contentions of the landholders prevailed. The net result of the Montford Reforms was that the Zemindars of Bihar and Orissa got (1) five special seats reserved for them in the Local Council, (2) right of participation in general electorates, (3) two nominated seats in Local Council, (4) one seat reserved for Legislative Assembly *plus* participation in general electorates. Whereas the poor tenants were left in the cold to fight the battle with mighty landlords having large sum of money and large number of motor cars at their command. Thus the Provincial Council was swamped by the Zemindars and the representation of the tenantry became almost nothing. Tenants derived very little benefit from the Montford Reforms whereas taxation increased on all sides. And who had to suffer and pay—the poor men of India. We had to pay for the increased cost of administration including the salaries of the Ministers and their Establishments. Taxes were increased both in Local Council and Legislative Assembly. As a consequence of heavy

taxation the poor people and tenantry are starving and there is no prospect of any power or responsibility coming in their hands. It was thus that the tenants pronounced the Reforms as most disappointing, and unsatisfactory so far as tenants' interest was concerned.

The helplessness of the tenants and the disappointing and unsatisfactory character of the Reforms became apparent when the Government of Bihar and Orissa wanted to amend the Bengal Tenancy Act in 1921 as a result of tenants' agitation in the matter. The Government of Bihar and Orissa had an official Tenancy Bill of 1920 which was strongly opposed by the Zemindars and the Bihar Provincial Kisan conference rejected that Bill under my presidency in 1920 as conferring nothing on the tenants but more powers on the executives. The old Bihar Government in deference to our wishes postponed the Bill in 1920 and after the introduction of Reform era appointed a committee in 1921 called Bihar Tenancy Bill Committee under the presidency of the Hon'ble Sir Hugh Mcpherson with 4 tenants' representatives, 5 landholders' representatives, 1 planters' representative, and 5 official representatives. I had a seat on that committee. The tenants' representatives accepted the Government Bill of 1920 and the official members supported with much modifications the demands of the tenants. But with what result. The landlords were in an overwhelming majority in the council. Their number was further swelled by two nominated seats. The result was that the Bihar Tenancy Bill was postponed indefinitely. This is the sad history of the treatment of the tenants' class by Government. Now has come another committee to examine the defects in the Reform rules and let us hope what Southborough Committee failed to do, this committee will do and satisfy the legitimate grievances of the tenantry.

With this short summary of the history of the treatment accorded to us in the past, I beg to submit the tenants' point of views in a summary way. I shall give the detailed reply in oral evidence should the committee think it proper to hear the tenants' party also as the Southborough Committee did. A copy of the Resolution of the Government in Home Department dated the 20th June 1924 has been sent to me and a perusal thereof shows that the scope of enquiry is very limited. In the opinion of my Sabha the amendment of the Government of India Act should be left open, without such amendment our opinion is that no substantial advance can be made in the development of representative Government.

My Sabha thinks that in order that the Reform may be successful and popular among the masses and the classes it is necessary first that the franchise be broadened. We are strongly opposed to communal electorates as they mar the growth of Indian Nationality. In our opinion there should be a mixed electorate as in other self-governing countries and in that electorate let Hindus, Muhammadans, Parsis, Jains, Budhists and Sikhs compete with an announcement of their future programme in the council. Appeal to electorates should not be encouraged on communal or sectarian basis otherwise nobody can say how far the demand for such exclusive electorate will go. A day will come when Shiahs, Sunnis, Wahabis, Ahmadyas will all want separate electorates. Among the Hindus contagion has already spread in southern India among the Brahmans and Non-Brahmans. If the communal electorates

will be encouraged the result will be that even the Hindus may demand separate electorates for Brahmins, Rajputs, Vaishyas, Sudras, Sanatan Dharmis, Arya Samajists and so on. If Muhammadans insist upon their number being fixed I will fix their number on population basis both in local Councils and Assembly and not on any other basis. The same rule should apply in all the provinces. The Lucknow compact is now neither acceptable to the Muhammadans of Bengal and the Punjab nor to the Hindus of other provinces.

My Sabha is further of opinion that special landholders' electorates be at once abolished. Let there be fair field and no favour. The landholders have been enjoying all the privileges from the Government whereas the tenants have got nothing. Even on this committee there is Maharajadhiraj of Burdwan representing the landlords' interest on the committee but where is tenants' representation on the committee? We think equal justice should be done both to landlords and tenants. Abolish the special electorates for landholders both in local Councils and Assembly and ask them to compete in general electorates. If they insist upon special electorates and the committee is prepared to concede that in their favour, then I will debar them completely from participation in general electorates. But if the committee is prepared to allow the Zemindars both special electorates and participation in general electorates, then my proposal is that equal justice be done to the tenants also. In that case let special electorates be established for tenants also in all the Provinces both for Local and Imperial councils and considering the number of tenants their reserved seats be made double that of the Zemindars in all Councils. In one word we are strongly opposed to any special electorates being created for any special class. Our motto is fair field and no favour. If you allow a special privilege to landholders, please do allow the same privilege to tenants also. This is justice and equity. A statement from different Provinces will show the ratio of representation of landholders and tenants in different councils.

We are of opinion that some educational qualification be fixed for candidates for Local and Imperial councils. I can fix Matric passed at least for Provincial council and I. A. passed for Legislative Assembly.

In our opinion the dyarchy should continue in the Provinces for some years. But more subjects be transferred to Ministers except police, law and order and tenancy question. The Minister should have joint responsibility and not individual responsibility. The Ministry should either continue or resign in a body. The present system of appointing Minister is defective. The leader of majority party in the council be invited to form the Ministry with himself as Minister-in-chief with power to select his colleagues. Then and then only joint responsibility is possible. I am strongly opposed to the immediate abolition of the dyarchy and making all subjects as transferred unless and until provisions are made for adequate and effective representation of peasantry in the Provincial council. I am strongly opposed to transferring tenancy questions in the hands of Ministers. These questions should remain in the hands of the members of the Executive Council. My reasons are that if the tenancy question be made a transferred subject then the position of tenants will be reduced to slavery. During last council term when Oudh

Tenancy Bill was before the United Provinces Council the tenants of United Province fared very badly at the hands of the landholders' party which was a preponderating majority in the council. The result was that many amendments favourable to Zemindars were carried even against official opposition. In Bihar the two present Ministers were my colleagues on the Bihar Tenancy Bill Committee and, although both are my personal friends, they were strongly opposed to any concession being granted to the tenants, rather they were leading the Zemindar party in the committee. If they had been entrusted with tenancy legislation and the majority of the council was with them I think they would have taken away even most of the rights enjoyed by the tenants at present. So please have dyarchy by all means but do not transfer the tenancy question in their hands. Let it be a reserved subject unless and until there is secured adequate and effective representation of the peasantry. The more on this subject in my cross-examination.

The power of certification by Governors be limited in extreme cases. But their power of vetoing Legislative Acts should remain so that no undue advantage be at present taken by majority party by having an Act passed to injure the minority party. More independence be given to local Government.

My Sabha is of opinion that dyarchy should be introduced in the Central Government also. Such subjects as Post Office, Telegraph and other matters be placed in the hands of Ministers and only Foreign, Political and Army matters should be allowed to remain reserved. The power of Viceroy's certification also be limited.

In short I beg to point out that we have seen the defects of the Government of India Act and the rules thereunder. Let there be thorough revision of the constitution of the Provincial as well as Imperial councils on a more broader, liberal and representative basis. Let special electorates for landholders and Mussalmans be abolished. Let there be a common electorate for all. In the case of Mussalmans please fix their number for some years to come on the population basis in all the Provinces. The idea of political importance of any community should not be entertained. Let the constitution be so revised as to allow adequate and effective representation to peasantry and the labour. Without this there can not be full responsible and representative Government. Let dyarchy continue in the Provinces with more transferred subjects and introduce dyarchy system in Central Government.

Before I conclude I wish to answer one or two objections as to whether further advance can be made. The first is as to whether the masses have been well-educated to exercise their right of voting. This question I wish to answer thoroughly from my personal experience in cross-examination, suffice it to say that the electorates have not been up to this time educated on proper lines. No proper party programme has as yet been propounded by would-be candidates such as if landholders they will support permanent settlement and other rights of the Zemindars. If non-zemindar he will follow this course or that course in the council. Generally men of big pockets succeed in elections whether he be an idiot, educated or uneducated with a few exceptions. The voters of the villages do not properly understand what benefit they can get by electing this man or that man. If you take up tenancy question then you can easily educate the peasants' voters. But in a mixed electorate it is very difficult

for Rayots' party to succeed when fighting with a big landlord with a big purse. It will take at least 15 years for properly educating the electorates.

The other question is as how to get the representations of depressed classes in the councils. This was the question which Sir Frank Sly asked me in Southborough Committee. My answer is that give adequate and effective representation to peasantry, labour and these two classes' representatives will thoroughly represent the depressed classes. After all who are the depressed classes? They are poor tenants and day labourers. And are we not the proper persons to represent their cases? They want security of their lands and better wages. We can better look after their interests. We have been living in villages and know their weal and woe and they have more faith on Kisan representatives than on any other gentlemen. In short please pacify the tenants and labourers and prevent them from being exploited by the Swarajists, that it is they who are the tenants' and labourers' friends and that the Government is their enemy and totally opposed to their advancement politically and socially. The programme settled by the All-India Swaraj party at Calcutta proves this.

The 20th August 1924. ARIKSHAN SINHA.

Letter from the General Secretary, Bihar Provincial Kisan Sabha. No. 43. dated Muzaffarpur, the 21st August 1924.

Supplementary Memorandum of Evidence.

I have already sent the Memo. of my evidence to you. I want to make the position of Kisans clear. They form the millions and millions of people living in villages cultivating lands and supporting their family with produce thereof. They want in short (1) security of their lands, (2) right to plant trees and appropriate fruits and timbers on their cash-paying holdings, (3) right to build houses for their family and cattles unhindered, (4) to dig wells for drinking water for themselves and cattles, (5) their rents payable to landlords should not be increased so long as the revenue payable by landlords to Government is not increased, (6) they should not be unnecessarily ejected from their holdings, and (7) they should have the right of considering their lands and holdings as valuable property capable of being mortgaged and sold in cases of necessities. In short they want that the pledges held out by Lord Cornwallis to Rayots and actual cultivators of soil in Permanent Settlement Regulations while making permanant settlement with Zemindars be redeemed. I have had occasions of studying the pitiable and helpless conditions of tenants of Bengal, Bihar, Orissa and United Provinces by going there and mixing up with them and enquiring about their grievances. I have very carefully and minutely followed the cross-examination of the *ex*-Ministers so far examined who wanted immediate full responsible Government and abolition of dyarchy. But not a single question has been asked as to what they have done for the dumb millions of tenantry and what they intend doing to protect the interest of the tenants if they get immediately fullest possible responsible Government by abolishing dyarchy. The non-co-operators promised to the people to bring Swaraj within a year. The Swarajists say, organise tenants and labour

and help them. But in what way ? Are they all prepared to remove the grievances of the tenants as mentioned above. I must tell you, Sir, we are not in favour of communal warfare. That should be discouraged. But certainly we plead for equal justice and protection of all interests, *viz.* (1) landlords, (2) tenants, (3) capitalists, and (4) labour. All castes and communities come under one category or the other whether they are high class people or so-called depressed classes. I must say that the Southborough Committee failed to satisfy the grievances of all interests equally. Experience has shown that the neglected and important interests need protection. Let us hope what Southborough Committee failed to do, this Committee will fulfil. This is my supplementary statement. I hope and trust that you will give me an opportunity of being heard before you hear the Swarajists and landholders. I am prepared to start for Simla the moment I get wire.

Memorandum by Mr. S. M. Chitnavis, ex-Minister, Central Provinces.

The new Reforms were designed with the object of developing Responsible Government in India. But as under all systems of Responsible government the Executive must in administering the affairs of the country be responsible to the people through the representatives in the legislative bodies, it is essential that a proper and intelligent electorate be first created. If on account of the general illiteracy and lack of public spirit of the people the proper and intelligent electorate has to be small, no large amount of responsibility in administrativ- work can with safety be entrusted to their representatives in legislative bodiese The growth of Responsible Government must therefore depend on the growth. of the size of the electorate. If this electorate is small the amount of administrative work entrusted to the Ministers chosen out of the elected representatives must also be correspondingly small. At present in the Central Provinces and Berar the urban electorate is about 11·4 per cent of the male population in the urban constituencies, the rural electorate is 2 per cent of the male population in the rural constituencies, and the total electorate is 2·6 per cent of the total male population. The only functions, it is said, that can be entrusted to Ministers in a Council constituted on this basis are those which are concerned with raising the intellectual level of the people, or in fostering civic life among them, or the administration of departments which are not likely to bring about clash of interests between the enfranchised classes and the unenfranchised masses. The other functions must for the present continue to be under the bureaucracy. Hence arises the necessity of drawing a line between th-se functions of government that can be safely entrusted to Ministers and those that cannot be so entrusted. This is the justification of dyarchy.

2. But dyarchy is a stage in the deve'opm nt of full Responsible Government. Till full responsible government is attained the popular or Parliamentary half of Government must constantly be engaged in raising the intellectual level of the people, in promoting civic life among them, for in that way it becomes possible to widen the franchise, expand the electorate and thus eventually make out a case for increasing the work of the Ministers. For this purpose the Ministers must have a free hand in the administration of the departments entrusted to them. It has to be seen whether the present constitution and practice allows to the Ministers a free hand in the administration of the departments under them.

3. In the first place, at the top of the administration is the Governor whose relation to his Ministers is that of a superior authority in whom much reserve power and a very large amount of discretion is vested. A perusal of the relevant sections of the Government of India Act would give the impression that Ministers are accorded greater authority than Members of the Executive Council for the very reason that they are accountable to the Legislative Council and can be turned out of office by an adverse vote of the Council, whereas members of the Executive Council are accountable not to the Legislative Council but to higher executive authority. But this impression is liable to be modified on a perusal of the Instrument of Instructions to the Governors, and it will be still more qualified by a perusal of the rules made under the Government of India Act. The rules framed under the Act have actually had the effect, in practical administration, of taking

away something from what the Act conferred in general terms. The result is that the position of Minister is somewhat less than a perusal of the Government of India Act would lead one to suppose. The Ministers should therefore be emancipated from a great deal of control over them reserved to the Governor.

4. Secondly, there has been no such thing as a Ministry. The Joint Select Committee opined that the Ministers would work jointly as a Ministry. But the wording of the Government of India Act in several places and in the Devolution Rules point to a contradictory meaning. The Ministers are selected from different groups on communal, linguistic or territorial considerations. They have not previously worked politically together, nay as it happened on the last occasion the two Ministers had not known each other before they were selected for this office. The corporate responsibility of Ministers which the Joint Select Committee emphasized was observed in the breach. Although there were no apparent occasions of any serious differences between the two Ministers instances were not wanting during the past three years of one of the Ministers trying to play some members of the Legislature against his colleague with a view to undermine his position and influence and possibly to bring about his downfall. The Legislative Council was divided into a number of groups which could be manipulated in various ways. The Ministers had no settled majority at their back. Each Minister had to shift for himself and to have recourse to 'log-rolling.' The Ministers were liable at any moment to be called to the bar of the House.

5. Under the Constitution the Ministers can expect support and assistance from the Executive Council and the Official block. The Ministers need not resign even if the majority of elected members in Council do not support their policy. With the aid of the Official block they can hold on even if they have lost the confidence of the majority of elected members. In self-governing countries enjoying Parliamentary or Responsible system of government where Councils consist only of elected representatives of the people defeat of a Ministerial measure by a majority of the members of the Legislature would compel the Ministers either to resign or to recommend the dissolution of the Council. But fortunately for the Ministers in this Country the presence of the official block and the Joint Select Committee's formula that 'each side of Government will advise and assist the other.....' comes to their rescue. The new mechanism thus makes the Ministers to a great extent independent of the majority among elected members in Council. They cannot under such circumstances be said to be responsible to, and are under no necessity to fear the displeasure of the elected representatives of the people in Council. Our Ministers therefore cannot in the true sense of the term be said to constitute a Committee of the representatives of the people in Council, as is the case with the Cabinet in England. This idea of parliamentary, or as it is called Responsible system of Government is based on the principle of reconciling the natural antagonism between the Executive and the Legislature. In non-parliamentary or Presidential system of Government the Cabinet of Ministers is not responsible to the Legislature, and cannot be driven out of power if it loses its confidence. In the United States of America the conflict between the Executive and the Legislature is removed by having the Executive also elected by the general electorate There the electorate is the common bridge on which the differences between the Executive and the Legislature are reconciled. The English system is different. In England the Cabinet of Ministers is virtually a Committee of the Legislature

and holds office during its pleasure. Under the English system the Ministers are liable to be dismissed if the Crown, the Head of the Executive, is displeased with them and they are liable to be driven out if they lose the confidence of the Legislature. So the Cabinet of Ministers is the common bridge on which the ever-lasting conflicts between the Executive and the Legislature are reconciled. Our Ministers are no doubt nominated by the Governor, the representative in this Country of the Crown, but as already shown above they are under no necessity to fear the displeasure of the majority of elected members in the Legislative Council. Our Ministers cannot therefore in the true sense of the term be said to constitute a Committee of the representatives of the people in Council. So here the conflict between the Executive and the Legislature still continues. As in order to hold a commanding position in the Legislature the Ministers have to depend on the support of the Official block; it is natural for them to appear as suppliants before the Executive Council. So long as there is no party organization on right lines and the Ministers do not belong to the majority party they cannot have a solid Ministerial block to support them. Till then the Ministers must depend on the Official block for support. The present mechanism does not therefore fulfil the expectation of the Joint Select Committee. This mechanism keeps the Ministers in an inferior position. Not only can the Official block act as a prop for unpopular Ministers against the onslaughts of the majority among the non-officials, but it can also drive out popular Ministers by transferring its support to the minority among the non-officials. This state of affairs can be remedied by depriving the official block of votes in discussion on Transferred subjects. The non-officials will then gain control over the policies of Ministers. The Ministers would become responsible to the representatives of the people in Council and the popular half of Government will also become to a great extent independent of the Bureaucracy. Such a convention I think should be allowed to grow.

6. Thirdly, there are the Financial restrictions on Ministers. All actions of the Executive must eventually involve the raising of some money or the raising of some fresh revenue. Every action of the Executive Council or of the Ministers must have some financial aspect. The Joint Select Committee recommended that "Expenditure on transferred subjects shall with the narrowest possible reservation be within the exclusive control of the Provincial Legislature and subject to no higher sanction save such as is reserved to the Government by section 72. (1) (*b*) of the Government of India Act." In order to give effect to this recommendation Devolution Rule 27 (2) prescribes that the Local Government of a Governor's Province shall have power to sanction expenditure on Transferred subjects to the extent of any grant voted by the Legislative Council. But if we study the other Devolution Rules we will find that there are restrictions other than Legislative imposed on the Ministers. Under Rule 36 of the Devolution Rules there is in each Governor's province a Finance Department which is controlled by a member of the Executive Council. The Finance Department is thus virtually made a Reserved Department. Immediately subordinate to the Finance Member is a Finance Secretary. With him can be associated a Joint Financial Secretary if the Ministers so desire. This Joint Secretary is to be appointed by the Governor in consultation with the Ministers. The Finance

Secretary and his whole staff owed allegiance to the Governor-in-Council only and not to the Governor acting with his Ministers. The Finance Member is in charge of several subjects some of them being expenditure heads, and the latter start with an initial advantage. He being a part of the Governor-in-Council is responsible not to the Legislative Council but to the Secretary of State through the Government of India. He has no manner of responsibility for the Transferred subjects—for their finance or administration. The Governor to whom the Finance Member is subordinate is similarly and equally responsible not to the Legislative Council, but to the Secretary of State through the Government of India for the administration of the Reserved subjects. He is supposed—only supposed—to be carrying out faithfully the provisions of the Act and the Instrument of Instructions and the Rules, modified by the unpublished rules of Executive business.

7. An aggrieved Minister cannot take into confidence the Legislative Council to which he is supposed to be responsible as to how he has fared with his Reserved colleagues and his Chief. If supported by his Co-Minister or Ministers he can ask for the appointment of a Joint Finance Secretary to look after the finances of the transferred departments. That this officer's position would be unenviable needs no saying. The appointment would be liable to be interpreted as a proof of want of confidence in the Finance Member and the Finance Secretary. He would be dependent upon them for his prospects in service. He might be looked upon as a spy. It is no wonder that in no Province have Ministers pressed for the appointment of a Joint Finance Secretary.

8. The functions of the Finance Department are described in Rule 37 of the Devolution Rules. In a word all the strings of Public Finance in the province are in the hands of the Provincial Finance Department. If a Municipal Committee applied to Government for loan for constructing a plant of water supply the Minister-in-charge cannot sanction such loan without previously consulting the Finance Department. If a District Council applies for a loan required for capital expenditure on Hospital buildings, or for undertaking sanitary works in rural areas, if the Co-operative Credit Societies stand in need of a temporary loan from Government, if in order to promote temperance in the country the Ministers want to enhance still-head duty on liquor or license fees for the sale of intoxicating drugs, if there is a proposal to grant State loans for the development of certain industries, and so on, the Finance Department must first be consulted, its advice sought, and its permission obtained. After the grants for several departments have been sanctioned by the legislature, money cannot be spent unless permission for appropriation has first been given by the Finance Department. After the grants have been sanctioned and appropriated, the Ministers cannot make any reappropriations from one Major or Minor head to another without the sanction of the Finance Department. Again, without the permission of that department no office can be added to or withdrawn from the Public Service in the Province, and the emoluments of no post can be varied, no allowance, no special or personal pay can be sanctioned for any of the posts or for any Government servant. In deciding any of these matters the Government must take the report of the Finance Department into consideration.

It will thus be seen that the powers of the Finance Department are all-embracing and the Ministers are so much under the leading strings of this department that they can do nothing without previously consulting it.

9. From an enumeration of all these powers of the Finance Department I do not want to give an impression that I object to these powers being exercised by them. It is obvious that Ministers must always and in every country depend on expert financial advice. But the point I want to make out is that the Expert authority, *viz.*, the Provincial Finance Department possessing such wide powers of control on the Ministers is in its turn controlled by an Executive Councillor. In every little matter the departmental heads of transferred departments must obtain the sanction not so much of the Ministers to whom they are responsible, but a department outside the control of Ministers. The powers of the purse are thus entirely in the hands of the Executive Council. The Finance Department possesses the constitutional power of conducting itself in such a way as to keep the transferred departments on reduced rations. One technical objection or another, from a financial point of view, can always be raised against schemes of new expenditure and Ministers can thus be prevented from taking proper measures in pursuance of their policy. So long as this state of affairs can occur, and it seems that it has occurred in the United Provinces and some other provinces, Ministers cannot avoid being controlled and impeded in their actions by the other half of Government.

Let me add that my relations with the Hon'ble Finance Member were very friendly and by means of free informal talks I got on well, on the whole, with him and the two Finance Secretaries of my time, but there is almost nothing to be said for the system itself. The virtual conversion by rules of the Finance Department into a Reserved Department is wrong in principle and its drawbacks can be emphasized actually in practical administration.

10. And now I come to the "Restrictions of Higher authorities". These restrictions have to be considered under two heads, that is to say in legislation and secondly, in finance. In legislation the Acts of Provincial Governments can be divided into two classes (*a*) those that before introduction in the Provincial Councils do not require sanction of Governor General and (*b*) those that do require such sanction. Those Bills which before introduction into the Legislative Council do not require the previous sanction of the Governor General must after passage through the provincial legislature obtain not only the assent of the Governor but also of the Governor General. The Governor can, if he likes, withhold his assent. If a Bill passed by the Provincial Legislature contains provisions (*a*) affecting the religion or religious rites of any class of British subjects in British India (*b*) regulating the constitution or functions of any University and (*c*) having the effect of including within a transferred subject matters which have hitherto been classified as reserved subjects, the Governor, without himself assenting to it must reserve it for the consideration of the Governor General. In the ordinary administration of the transferred subjects also there are some restrictions on the powers of Ministers. If a Minister proposes that local bodies should get powers to borrow money otherwise than from a Provincial Government, or if he proposes that they should possess powers of taxation beyond Sch dule II of scheduled Taxes rules, his proposals must first receive the sanction of the Governor General.

If in the administration of public health, sanitation, agriculture or veterinary departments, all of which are transferred subjects, the Ministers want to deal with infectious diseases, or animal diseases, or destructive insects and pests and plant diseases, they cannot take action which is not in accordance with principles settled in Acts of Indian Legislature. It is the function of Ministers to prevent adulteration of food stuffs, but they can take no measures which may affect the Import or Export trade of India, subject exclusively under the control of the Central Government. All questions concerning weights and measures are supposed to be dealt with by Ministers, but as regards fixing standards their action must be governed by the Act of the Indian Legislature. Legislative proposals of Ministers even though they may have passed through all prescribed stages in India are liable to be vetoed by the Crown in England on the advice of the Secretary of State for India.

11. Next there are the financial restrictions imposed upon Ministers by the higher authorities. These are contained in Schedule III to the Devolution Rules and need not be recapitulated here.

12. Again the administration of transferred subjects must be exercised in accordance with the Provisions of All-India Codes, Fundamental Rules concerning Civil Services and Departmental Codes. The discretion of the Ministers must be exercised within the confines of these Codes. Lastly, under Rule 49 of the Devolution Rules the Government of India exercises powers of superintendence, direction and control over Local Governments in relation to transferred subjects for the purposes mentioned therein.

13. From an enumeration of all these restrictions—legislative, financial and administrative—exercised by the Government of India and the Secretary of State on Provincial Ministers I do not again want to give an impression that these powers of the Central Government are not necessary. Perhaps such like powers are, in all countries, wherever federal system of government prevails, exercised by Central Government on Provincial Governments. But the difficulty at the moment is that in the Central Government so far the Executive is not at all constitutionally responsible to the representatives of the people in the Indian Legislature. The latter cannot therefore assume any responsibility for the different All-India Regulations, or for the powers of superintendence, direction and control by the Government of India over transferred subjects in legislative, financial and administrative functions. The powers to restrict the actions of Ministers possessed by the Government of India or by the Secretary of State for India are really exercised by the bureaucracy. To this extent the Ministers are dependent on the bureaucratic half of Government and so far the principle of dyarchy remains in-operative. The only remedy against this state of affairs is to introduce an element of responsibility into the Government of India.

14. I have indicated above how owing to the dyarchical constitution of the Government, defects in Rules and the large number of non-votable items the present condition of affairs stands in the way of enabling Minister to rise to the full height of their stature and prevents them from giving effect to the wishes of the people in the Legislative Council. Among all public offices that now exist in India there is perhaps none which is more delicate and more thankless than the office of Minister.

15. Dyarchy is perhaps a clumsy weapon for forging a system of complete self-government. But it has given us some training. At the time it was introduced, nobody felt enamoured of the system in the provinces. It was accepted as a necessary evil of the situation. The experience of the last 3 years has prominently brought to light its defects, and the system cannot be maintained any longer. No one even at the inception of the Reforms thought that dyarchy was going to be a permanent feature of the Reforms. There must now be such a mending of the present system that all its drawbacks might disappear. It has become the general conviction of all but the devotees of stagnation that in the Provinces Executive Councils should be abolished at as early a date as might be and Ministers substituted therefor, so that there may be an unitary Government acting as one body and collectively and severally responsible to the Legislature elected by the people. Not only is complete provincial autonomy essential for progressive government as well as administrative efficiency but even this will not be of full avail without the Central Government being made responsible to the Legislature and being freed of outside control in all matters of internal administration. In support of this I would quote the following from Dr. Sir Tej Bahadur Sapru's Presidential address at the Poona session of the National Liberal Federation, on this subject. He said:—"Will you be satisfied with provincial autonomy without a corresponding change in the character and composition of the Central Government? The words 'provincial autonomy' seem to have a great fascination for some of us, but I venture to think that when you will take the trouble of viewing the Government as a whole, you will not be free from serious doubts as to whether in actual practice it is practicable to give the provinces autonomy, when the Central Government, which must continue to deal with certain national matters of the most vital character, will continue to own the authority of a higher authority. From a purely constitutional as also an administrative point of view, I think the system will not work even fairly satisfactorily for long and I am afraid there will be constant friction between the so-called autonomous provincial Governments and the Central Government. It is true that the sphere of functions of the two Governments may be more clearly defined, but it seems to me inevitable that in certain matters affecting the interests of the country as a whole, your Ministers will be in the unenviable position of choosing between their supporters in the Council and the Central Government.

* * * * * * * * * *

"I am not pleading for the introduction of dyarchy in the Central Government. All that I am urging is that the field of administration covered by the Central Government should be carefully surveyed and examined, the sphere of functions of the Central and Provincial Governments should be precisely defined, and that the civil administration in charge of the Central Government should be made responsible to the extent to which it is made responsible in the provinces." Great weight must be attached to this pronouncement. We must thus have full autonomy in the provinces and complete power of the purse. The control at present exercised by the Secretary of State must be removed and the Central Government made responsible, except perhaps as regards foreign affairs, relations with Indian States and defence, subject to certain restrictions and safeguards.

16. As regards the feasibility of advance within the Act by the use of rule-making powers in the Statute, I do not deny that some progress is possible

by this means. For instance, the excessive powers conceded under the rules to the Governor can be curtailed by suitable amendments thereof. Similarly it is possible to increase the number of 'transferred' subjects as well as the powers of Ministers. The recommendation of the Joint Committee of Parliament concerning joint deliberations between the Reserved and Transferred halves of Government, but which has varied from province to province under different Governors or even the same Governor according to temperament, prejudice and circumstances can be made obligatory. So in the Central Government the Secretary of State can delegate to the Governor-General-in-Council most, if not all, of the powers of superintendence, direction and control now vested in him. Let this and everything else that is possible under the Act be done by all means. But I must not omit to say that the advance which it will be possible to make by such means will fall very much short of true responsible Government which the country demands and it will be deeply resented and strongly opposed by all politicians in India.

17. As regards some of the objections urged against any future constitutional advance, I would observe that the bringing about of a complete cessation of communal or sectional conflicts must be a long continued process. Only under the weight of common responsibilities which would be laid upon them in a state of Self-Government and a stimulus of common endeavour to make that state as productive of good as possible to all the communities that they would begin to realize quickly the unity of their aims and interests. Similarly the removal of untouchability is not a work of a few brief months. A vigorous movement is at present going on in the country and is sure to bear fruit ere long. As for the illiteracy of the masses almost all the world over constitutional reforms have proceeded at the instance of the intelligentsia and the educated classes. If the urgent Reforms are made to wait the spread of education among the masses then I am afraid we must wait perhaps indefinitely.

18. To sum up, my proposals are :—

(1) The Ministers be emancipated from a great deal of control over them reserved to the Governor ;

(2) A Ministry, in place of individual Ministers, be recognized and corporate responsibility prescribed ;

(3) The powers of Ministers be enlarged and they be relieved of a great many of the existing restrictions—financial, legislative and administrative ;

(4) The Finance Department be removed from the control of a Member of the Executive Council ;

(5) Full autonomy and power over the purse be granted in the provinces to the representatives of the people in the legislatures ;

(6) The Central Government, with certain exceptions, be made responsible to the representatives of the people in the Indian Legislature.

NAGPUR ;
The 23rd July 1924.

S. M. CHITNAVIS.

Memorandum by Rao Bahadur N. K. Kelkar, ex-Minister, Central Provinces.

Letter, dated Balaghat (C. P.), the 15th July 1924.

From—Rao Bahadur N. K. Kelkar,

To—The Secretary, Reforms Enquiry Committee, Simla.

I have the honour to acknowledge receipt of your letter no. F.-166|11|1|24-Public, of the 3rd instant, and in reply thereto, send you a written Memorandum of evidence. This Memorandum consists of two parts, (*a*) Printed and (*b*) Typed. The first was submitted by me to the Local Government (Central Provinces) in response to their letter, in which I was asked to write a note on the working of *Dyarchy*. My evidence will be on the lines laid down in the printed note. In the Supplementary typed note, I have mentioned a few more points and illustrations.

If the Committee desires to examine me orally, I shall be glad to appear before it for that purpose. Please let me know as early as possible, if the Committee will require my presence for oral examination. If so, I may be informed of the place where and the date on which I shall have to be present. This information will enable me to arrange for my other programme of work.

Please acknowledge receipt of the Enclosures.

I am asked to place on record the observations I may have to make as the result of my personal experience of working of the reforms in the Central Provinces and Berar during the last three years. In doing so I desire to make it clear that nothing that is put down here is written with a view to cast any reflection on anyone ; I am giving my own experience with the main object of pointing out the defects in the working of dyarchy.

More than three years ago people had grave doubt about the success of the reforms under dyarchy. It could be said at that time that the apprehensions on one side and sanguine or fairly sanguine belief in the success of the scheme on the other were equally imaginary. It is possible now after three years' experience to dispense with mere imaginations or conjectures. Those who had the privilege of being associated with the actual working of the reforms must substantiate their observations by inferences from facts and references to concrete instances.

2. One cannot fully appreciate the working of these reforms unless the said working is examined from start to finish. For a proper estimate of the whole situation we must begin with elections.

3. After the introduction of the reforms there were two elections and although on either occasion it may be said that they were brought about or influenced by circumstances more or less of a temporary character, there is much in the results which ought to open the eyes of Government as well as of those who believe in constitutional progress.

4. I don't remember now the total number of voters under all constituencies, but I believe the percentage of the total number of voters to the total population is very small. A large majority of even the registered voters is illiterate and they or a fairly large portion of the

literate voters generally don't care to think of the elections and of their probable consequences. During the turmoil that precedes elections and which lasts for a few weeks the electors, both literate and illiterate, readily believe anything said against Government and those who attempt to explain or interpret Government policy or who have been associated with Government are suspected. The suspicion is so deep rooted that it is almost impossible to root it out during the short period for which the campaign lasts. One is thus perforce compelled to leave the removal of the suspicion to time and experience.

5. This accounts for the abstention of a large number of voters from the poll at the first election. This also accounts for the success of the Swarajists and defeat of non-Swarajists and especially of the Ministers at the second election. It may be borne in mind that the ideal or goal of all the politically-minded people sailing under different party labels is the same and naturally people very readily believe the tall talk of one party in preference to the comparatively mild and logical persuasion of the other.

6. Although this is so, I am not inclined to suggest that the number of voters should be reduced or the franchise should be confined to those who are educated or at least literate. Such a step would give unnecessary cause for agitation. With the very wide and extensive franchise provided for in the local self-government enactments and with the experience gained there time will soon come for extension of franchise for purposes of election to the Legislative Councils.

7. Although the electorate is illiterate or ignorant and on that account or otherwise is incapable of realizing its responsibility there is no reason why immediate steps should not be taken to make some radical changes in the election rules with a view to provide a surer basis for the edifice of representative and responsible Government. The lessons we have learnt as the results of the last two elections as well as other circumstances make it clear that in two or three respects immediate change or improvement is needed. The lack of responsibility at the bottom, *viz.*, that of the average voter, may not be as dangerous as the one at the top. For responsible Government it is necessary that the members of the Council should be capable of realizing their responsibility. We cannot reasonably expect to have responsible Government if we make it possible for any one deliberately to return to the Councils illiterate, ignorant and inexperienced *Darjis, Chamars* and *Bhadbhunjas* or persons who have got no political or administrative experience. Members' qualifications should therefore be made much higher than those of the electors. In this country there is every reason to differentiate between the two. The members must be men of much higher and superior qualifications, educational, administrative and political. If this principle is accepted, I don't think there will be much difficulty in drafting the rules.

8. I am aware that this suggestion of mine will be subjected to a very hostile criticism by some who will not fail to insinuate or express openly that it is made in the interest of those who have until now managed to monopolize all or most of the responsible public offices to the exclusion of those who call themselves backward. In my opinion we must be prepared to face such a criticism. Our aim is to establish at an early date responsible self-government in this country. The task therefore must be entrusted to those who are capable of realizing the responsibility. Such

a rule will stimulate others to exert themselves to rise to the level of those who are at present superior to them in respect of education or the like.

9. The second point regarding which an immediate change is needed relates to communal representation. In the beginning it was anticipated both by the politically-minded people as well as by the authors of the reforms that this communal representation would be merely a temporary business. In theory it is recognized to be vicious and in practice it is found to be pernicious. Communal dyarchy, if I may so describe it, has proved to be more dangerous than administrative dyarchy. It is impeding the progress of reforms. Instead of curtailing the desire for communal representation the rules have a tendency to encourage almost every caste to retain seats on the Council not on merits but on merely communal grounds. If you concede it in one case you can't withhold it in other cases. Communal representation is claimed not only for the sake of membership but it is claimed for Ministers' posts and employments in Government service are claimed on communal grounds. With such tendencies which are bound to grow if the rules are allowed to stand representative or responsible Government must be a matter of the farthest unknown future. Public service will be inefficient and it will not be surprising if it is demoralized. It is an open secret that claims based on communal feelings and interests did at times make the position of every one of us delicate.

10. I can say without fear of reasonable contradiction that in these provinces such a representation is not needed. It is occasionally claimed by persons of no merit who desire to come to the forefront through official favour. Government must take a bold stand and should abolish the rule. I don't believe in pacts. I don't believe in Councils divided into communal compartments.

11. The third point in respect of which improvement in the constitution of the Council is required relates to (i) nomination of officials as members of the Council and (ii) special representation of the urban classes and (iii) of the landholders.

12. In the pre-reform days the presence of the officials was considered necessary or desirable for several reasons. None of those reasons any longer exist. Very few non-officials care to avail themselves of official training and experience. Now it is impossible to carry any measure through blocks of officials and nominated members. In my experience I have found that mainly on account of the presence of official members or on account of something said or done by them, voting on certain measures was adversely or differently affected. Council must be made to feel that for anything right or wrong, good or bad, *they* and *not* Government servants are responsible. The Government's position or policy should be explained by Government members and Council Secretaries (if any).

I don't see any reason why the two special representations should continue. If at all any special representation is considered necessary for the land-owning classes, it must be to the tenants. But I am not prepared to recommend that also. In my opinion it would do for the present if the Council is rid of the aristocratic element. In my experience both as a Minister as well as otherwise I have found that the malguzari and zamindari classes are not very sympathetic for the advancement of the peasantry and labour classes. They as a class are against what may be called socialist measures such as (*a*) Universal diffusion of primary

education, (*b*) establishment of village panchayats or co-operative societies, (*c*) introduction of uniform weights and measures, etc.

13. Such concessions would neither help Government nor this class. This representation must be differentiated from other special representations such as that of mining, commerce and industry, university, etc., which require technical knowledge and practical experience, of those branches.

14. Similarly, I do not see any necessity for retaining the seats reserved for urban representation other than for the towns of Nagpur and Jubbulpore.

Now that the bar arising out of insistence on residential qualification is removed it is immaterial to retain any seats for urban people.

15. I do not propose to go into details further. It will suffice for the purposes of this note to say that it will take years before the electorate is properly trained in the sense of forming a judgment on definite political issues. It is neither safe nor necessary to wait till the whole electorate is properly trained. The deficiencies in the electorate ought to be removed without loss of time in the manner suggested before firstly by prescribing much higher qualifications for members from which it follows those of Ministers and Council Secretaries, secondly by abolishing communal and class representations, thirdly by removing the official element from the Council and fourthly by increasing the strength of special representation that require technical knowledge and practical experience.

16. If these points fail to receive immediate consideration and if the Councils are not reconstructed on the lines suggested above, I think it is worse than useless to think of further political advance or to talk about representative and responsible Government. As in the past so in the future we shall continue to waste our energies and time in carrying on aimless agitation on the one part and in fomenting racial animosities and parochial jealousies on the other.

17. Having secured an improvement in the constitution of the Council, the next step is to secure an improvement and efficiency in the work of the Council. Council work is divided into three parts :—(*a*) legislative, (*b*) administrative and (*c*) financial.

18. Before proceeding to deal with these matters in detail I should like to say a few words about the Council Secretaries and the departmental Standing Committees. It may also be useful to consider if three years are sufficient for Council life.

The system of training Indians in the art of administration by appointing them as Council Secretaries did not work well in these provinces. Owing to financial stringency very low remuneration was fixed and that failed to attract business men to take up this work in earnestness. That remuneration was again reduced to a ridiculous amount by a vote of the Council. This reduction was made with a view to compel the Secretaries to resign their offices. It was suspected that these people by accepting offices became for all practical purposes Government members and as such were bound to vote with Government. Thereby the non-official majority in the Council was reduced so far as voting was concerned. This feeling or misunderstanding can be removed by appointing Council Secretaries out of those who command the majority of votes in the Council or by selecting them out of a panel fixed by the Council. Section 52 of the Act may be amended on these lines.

19. Speaking from the experience I gained from the working of the Standing Committees attached to the departments, in my charge, I say that they are very useful institutions. There is room for improving their efficiency and usefulness. There is no reason why the members of these Standing Committees should not be privileged to see office correspondence and notes. They can't give useful advice unless they see the other side of the picture. In order that the Ministers or members of the Executive Council may enjoy the confidence of the Council, they must be at liberty to take the members of the Standing Committees and Council Secretaries into their confidence. Increased association of Indians with administration can't be secured by shutting Indians from having an insight into administrative details. Most of the criticisms against Government measures would be unnecessary if a large number of people are allowed to acquaint themselves with administrative details. Government may then reasonably expect a larger number of men to defend their policy and the administration would be more popular.

20. There is one small point in connection with these Standing Committees which needs mention. In the case of one of my departments only, *viz.*, education, I was not allowed to include in the agenda of business any subject except with the previous approval of the Governor. I have not yet been able to understand why this restriction was imposed in one department only.

21. As regards the duration of the Council when once elected, I am of opinion that three years is too short a period. On account of want of administrative experience non-officials generally take some time to master administrative details before they are in a position to lay down policies. Very few non-officials have got previous administrative experience and even if they have gained some experience by working on local bodies and in other subordinate positions, that is not ordinarily quite enough to enable them to grasp the broad administrative problems affecting provincial interests within a short time. Besides it is difficult to attempt to make any changes in a settled system of administration without careful thought and consideration. Non-officials generally don't get ample opportunities for rendering public service and those who get are not in a position to avail themselves fully of such opportunities.

22. Under the reforms the Ministers as well as the members of the Council are expected to shoulder greater administrative responsibilities. They can't do so unless they are allowed sufficient time. It takes a very long time to get through any legislative measure. Even if any Act has already been passed it takes a long time to frame rules thereunder and to set the scheme in motion. Ministers as well as the Councils must have sufficient time to watch closely the working of any measures, legislative, administrative, etc., introduced by them. They must have time to rectify their own mistakes (if any). I have had no time to watch the working of the Local Self-Government Act, Municipal Act, Village Panchayat Act, University Act and the High School Education Act. Nor did I have sufficient time to judge from personal experience and observation the effects of other changes made in the Education and Medical departments.

23. I have not been able to understand why the reserved half of Government is allowed a longer lease of life than the transferred half. The former's term of office is, I understand, five years. Executive Councillors, of whom one belongs to the permanent service, are supposed

to be more experienced than the Ministers. It is moreover anomalous that one-half of Government should, during its term of office, have to deal with two different sets of Ministers and Councils, with, perhaps not unoften, different views and policies. I don't know how the reserved half of Government is faring now. It is not unreasonable to presume that they must be feeling very unhappy indeed. Even if the Swarajists had not captured the Councils, the experienced Executive Councillors would take some time to train their inexperienced Ministers, and by the time the latter were trained they (the Executive Councillors) would themselves retire.

24. If it is desired that the two halves of Government should work smoothly and well, it is essential that their term of office should be coextensive and it should be at least five years. I have not referred to the temporary causes such as those that arose out of non-co-operation. Even if they had not arisen I think three years' time is ordinarily not enough to show any marked progress. Governor's power to prolong the Council's term by a year does not count for much. The power to dissolve the Council within a shorter period would of course remain.

25. So far as the work in the Council itself is concerned, I think on the whole it was not quite unsatisfactory. There is moreover much room for improvement. Lot of useless work which is not at all of provincial importance and which could easily be disposed of by local officers or local bodies or by reference to the members of Government is brought before the Council in the shape of questions or resolutions. If this tendency shows signs of increase, rules will have to be amended with a view to restrict the Council work only to matters of provincial importance or to such others as involve broad questions of principle and policy. This step may be found unnecessary if in pursuance of my suggestion higher qualifications for members are prescribed.

26. I have already indicated above how at times the voting is influenced on account of the presence of official members in the Council.

The tendency to vote against official or Government measures is not unusual and even the Ministers are not immune from trouble on this account. Even if some allowance is made for racial or parochial feelings the fact remains that generally Ministers are looked upon as Government men, the Governor's pleasure being alone responsible for their appointment and continuance in office. I don't know if it will always be possible to form parties in the Council with clear cut programmes and even if at times parties with majorities are formed, I am not sure how long the members will loyally stick to the party programme. Ministers will have to use their personal or social influence in order to be able to carry out their policies. The opposition to the Ministers may be minimised by selecting Ministers out of a panel suggested by the Council. Even if parties are formed with distinct majorities, it may be found necessary to resort to this procedure.

27. Experience has conclusively proved that it is not advisable to retain in the Act the provision that the Ministers should be appointed by the Governors and that they should hold their office during the pleasure of the Governors. Since the Governors have no power to restore the salaries of the Ministers such a provision is useless. If the Ministers and the Council are allowed to act subject to each other's control, there may be less cause given for heart-burning. The suggestion I have made is

consistent with the demand that the executive should be subordinate to the legislature.

Legislative Work.

28. So far as legislative work is concerned, I acknowledge with gratitude that all my proposals and policies received whole-hearted support from His Excellency the Governor and other members of Government. My complaint, however, is against the Government of India.

29. I have not been able to understand why Government of India's sanction should be necessary to the repeal or alteration of any law not passed by the local legislature if such law relates only to the province such as the Central Provinces Municipal Act, Central Provinces Laws Act, etc. Local Governments are and must be responsible for the good government of the provinces in their charge and therefore they must have a free right to frame their own laws. The sanction (if any) may be merely formal. It will be seen from the correspondence received from the Government of India in relation to the Central Provinces Municipal Bill and the Nagpur University Bill that the Government of India tried to exercise meticulous control over the details of these Bills.

30. There may be some sense in one executive Government preventing or advising another executive Government in the matter of introducing any piece of legislation containing certain provisions. There is, however, no reason why non-official members should be prevented from introducing any Bills or from moving any amendments if they consider such measures are likely to advance a popular cause. By a very strange interpretation of law and rules discussion on certain amendments was actually prevented and in others it was allowed only with previous sanction. These attempts to restrict the liberty of members or to gag public discussion is against the spirit of the reforms. After public discussion there may be good ground for vetoing any amendment or for ruling out any Bill.

My recollection is that Mr. Mahajani's Temperance or Local Option Bill was allowed to be introduced only after he consented to drop certain provisions therefrom, especially those that related to foreign liquor.

Executive Work.

31. The Council as such is not supposed to do any executive or administrative work. It must, of course, have power to control the activities of the executive Government in matters administrative. At times a tendency to enter into minute administrative details is observed. This will be apparent from many of the questions and resolutions that were put or moved during the last three years. By stretching the language a bit, any question or resolution can be easily brought within the purview of what are called matters of public interest. It is, however, not safe to allow any and every matter of detail to be agitated in the Council. This results into waste of public time and money and the danger I see is that it may lead to intrigues such as we find in the working of the local bodies. Perhaps a much higher standard of qualifications for members would minimise this evil, but I think it would be well to define clearly the duties of the Legislative Council as distinct from pure administrative or executive work. The Council should only have power to see that its policies are carried out in substance by the executive Government and that any excess or favouritism is avoided in the execution of those policies

32. It is only with regard to the executive functions of Government that the real significance of dyarchy has to be assessed. I have indicated before that the Council as such did not show any marked hostility towards reserved subjects nor did it show any favouritism or leniency towards transferred departments. Both halves of Government were treated by the Council very nearly in the same manner. This was due to the general impression that had gained a firm hold in some quarters that the Executive Councillors and the Ministers had merged themselves into bureaucracy and they had bound themselves to support the policies or measures that were dictated to them by the Governor, Governor General or the State Secretary. Even so far as the Transferred departments were concerned, it was very difficult for the Ministers to remove this impression.

33. The Executive Councillors or Ministers did not oppose each other in open Council either by speeches or by silent votes or by refraining from voting on any particular measure. Our conduct had the effect of creating an ostensible impression that every one of us realized the value or importance of joint liability of members of Government. As a matter of fact, however, the inner working of Government was different. Cabinet meetings were few and far between. At these meetings discussions were more or less informal. The Ministers were allowed voice, but since they had no votes they did not feel that they were morally responsible for the administration of reserved subjects. The same remark holds good in the case of Executive Councillors also.

34. My general impression is that Executive Councillors and Ministers acted almost independently of each other. The Executive Councillors did not take me into their confidence even in regard to important administrative matters and consequently although we were expected to influence votes of Council members on any debate I must confess I did not do so whole-heartedly simply because I was not consulted beforehand.

What I expected was that I would be taken into confidence and thus be allowed to influence the policy of the other half of Government. I may cite a few illustrations to show that this was not done.

35. For some time after the commencement of the reforms I was supplied with copies of confidential reports on the general political situation in the provinces. I don't know if these reports were stopped afterwards. If they were not stopped, there is no reason why they should not have been sent to me during the latter two years or so of my term of office.

36. Meetings of the Governor and Executive Councillors as contemplated by section 50 of the Government of India Act apart from the Cabinet meetings mentioned before must have been held, I presume. I was not asked to attend these meetings nor was I supplied with copies of the proceedings of these meetings. Having regard to Order No. 29, paragraph 125, of the Manual of Business Procedure, I could not send for and see these proceedings as I could not say beforehand if they related to any case pending before me for disposal.

37. The Central Provinces Land Revenue and Tenancy Acts Amendment Bills were sent up to the Government of India and introduced into the Council without my knowledge and consent and the mistake was acknowledged only after I protested against the procedure.

38. I believe I was not consulted about the amendments to the Court Fees and the General Stamps Acts nor do I remember to have ever been

consulted about the rules framed under the Mining Act and the Arms Act.

39. I understand that the Hon'ble the Home Member went to Simla twice—once in connection with the question relating to the treatment in the jails of political prisoners and secondly, in connection with the rules under the Arms Act. I don't know what instructions of the local Government he carried with him. I do not remember to have been consulted with regard to the action the local Government should take on the recommendations contained in the Jail Committee's report.

40. I will close this part of the note by citing one more instance of more recent date. This relates to what is commonly known as the Nagpur Flag Satyagraha. The Ministers were consulted in the initial stage, but when the situation became serious they ought to have been consulted, especially with regard to the drastic measures that were taken by bringing into operation section 109 of the Criminal Procedure Code or section 120-B and other sections of the Indian Penal Code. Similarly, we ought to have been consulted about the compromise that was ultimately arrived at in this case. Not only this was not done, but I had not had the good fortune, though I was a Minister in charge of Public Works Department, of being consulted about the accommodation in the jails. I was told that His Excellency the Governor had sanctioned an expenditure of a lakh of rupees for expansion of accommodation in the jails.

41. Although instances of this kind may be multiplied, it must be admitted that there are others to the contrary to show that the Ministers were consulted with regard to some important matters relating to the reserved departments. For instance, I remember the part I took in the discussion of the question relating to the separation of judicial and executive functions.

42. My contention is that so far as joint consultation between all members of Government was concerned, there was a lack of uniformity in practice. As an instance in support of this lack I might mention one or two more illustrations. We (Ministers) were consulted with regard to the appointments of Secretaries to the Government. When Mr. Dhobley was appointed Additional Judicial Commissioner we (Ministers) were consulted. Curiously enough I was not consulted with regard to any other appointments mentioned in Schedule II to the rules or orders framed under section 49 (2) of the Government of India Act, and it is still more curious that I was not consulted when Rao Bahadur M. B. Kinkhede was appointed Additional Judicial Commissioner or when Mr. Baker was imported from outside. I can't say who was responsible for this diversity in practice. Ministers are as much interested in these various appointments as the Executive Councillors are. What is more when any unpopular thing is done by the reserved half the discontent that proceeds therefrom affects the work of the Ministers also and the relations of these latter with their usual supporters in Council or outside are strained in consequence.

43. I am, however, not prepared to insinuate or to suggest that the defect I have mentioned above was due to any deliberate intention on the part of the reserved half of the Government to exclude the Ministers from consultation, but I must say that it can reasonably be attributed to the system under which any person is justified in assuming that he alone is responsible for the administration of the departments in his direct charge and that consultation with others is merely a matter of grace or formality.

The very loose rules and orders issued under section 49 (2) of the Government of India Act may also be responsible for this lack of uniformity.

44. My grievance is not only against the Executive Councillors. I am quite willing to place the Ministers also in the same category, *viz.*, they are guilty of the omissions and commissions of the same kind for which I have criticised the reserved half of the Government. For instance, I don't remember to have been consulted before the excise policy which aimed at ultimate prohibition was announced and all the troubles and misunderstandings arising out of the co-operative department were due to absence of previous consultation.

45. I have never been in favour of dyarchy and yet I believe that with all its manifold weaknesses and inherent defects it may be possible to work it more smoothly and harmoniously if all members of Government, whether in the reserved or transferred sections, are allowed the privilege of inspecting papers relating to any department and all matters involving broad questions of principle or policy are settled in consultation with all members. I may go a step further and say that all members must not merely have a voice but also votes in the determination of policies or important administrative measures. It is then only that the Ministers can be made to hold themselves responsible for the proper administration of any department and hope to carry the Council with them. At present they are expected to carry the Council with them though they had neither voice nor vote in shaping any policy or in undertaking any measure legislative or administrative belonging to the Reserved department.

46. In any case it is absolutely essential that all parts of Government must act in concert and in union with each other. Popular representatives in the Government must be given all facilities not only for influencing but also for shaping the policy of Government. By allowing members of Government to act independently or to work with a feeling that they were responsible for their own departments only and not for the Government as a whole the Government's position was at times weakened or had become awkward. Government was put to expenses which could have been saved. Curiously enough people outside have gained an impression that in these provinces unitary system of Government is observed and all questions, even relating to Reserved departments, are *invariably* settled after consultation with the Ministers. As stated before, people expected the Ministers to shape the policy of Government which it is impossible for them to do if they are not consulted at all. There is nothing in the Act or in the rules or executive instructions that gives the Ministers a right to force their advice or views on the other half of Government. It won't do to keep the Executive Councillors and Ministers in the dark as to what takes place in other departments.

47. Ministers' position has already become awkward. It is neither graceful nor desirable that they should expose the other half of the Government. It is also very difficult for them to explain to the general public their attitude with regard to any Government measure either of their own department or of any other. Their defeats or narrow escape from defeats in elections may, in a large measure, be attributed to the present system.

48. The provisions in the Act or the rules and orders issued under section 49 (2) of the Government of India Act must be altered with a view to put an end to dyarchy in the Executive Government or at least to minimise its evil effects.

49. In the eyes of law Ministers being parts of Government must have the same privileges as the Executive Councillors enjoy. Ordinarily, the Executive Councillor's decision is binding on the Governor who can overrule it only under the circumstances specified in section 50 (2) of the Government of India Act. While the powers vested in the Governor to overrule the Ministers under section 52 (3) are much wider and are subject to no restrictions, I shall show subsequently how at times this power was not properly exercised and how it was a source of irritation and humiliation to the Ministers. Suffice it to say here that the Governor's power of superintendence, direction and control over the Ministers appears to be much more complete than even that of the Secretary of State for India in Council.

50. The Executive Councillors have a right to record their notes of dissent which, I understand, are forwarded to the higher authorities, but the Ministers are denied this privilege for no reason that I can think of In support of this I cite one case in which I wanted my views to be forwarded to the higher authorities for consideration, but I was told that I had no right to do so. The question in this case related to allowances that should be paid to Indian Medical Service officers holding various administrative posts. As Indian Medical Service officers work in the Transferred departments, I was consulted along with the Hon'ble the Home Member who is in charge of Jail and Police departments. I dissented from the Home Member. All I wanted was a consideration of my views by the higher authorities. This concession also was not shown to me.

51. Even in cases when Ministers were consulted their views were buried locally. Ministers and Executive Councillors barring, perhaps those who belong to Indian Civil Service belong generally to the same stock, possess the same qualifications. Why should one enjoy higher privileges and not the other ?

52. With regard to the transferred subjects it is not clear if the Governor is bound to consult only the Ministers-in-charge or all Ministers jointly. Similarly, it is not clear if a Minister can call in aid the votes of his co-Ministers to outvote the Governor. Since the Ministers have no right to go up to the higher authorities for enforcement of their views I always took the view that they had only two courses open to them when they failed to influence the Governor from within, *viz.*, they must either resign or they must put up some member of the Council to agitate the same question in open Council. Since the Minister is supposed to support ostensibly the Government policy the latter is not a desirable course. The Minister's position becomes awkward, especially when he is defeated. It is another matter if a sort of convention were established that defeat under such circumstances should not necessitate Ministers' resignation.

53. The long and short of my argument is that if the Governor is to be a constitutional Governor, his power of vetoing the Ministers should be restricted as in the case of Executive Councillors. But ordinarily no Minister's decision should be vetoed except by a vote of the Council. The Ministers can't please two masters—the Governor on the one part and the Council on the other.

54. As in some respects the constitution of the Legislative Council is defective so is the constitution of the Executive Government. It is inconsistent with the main object of the reforms that in the Executive Government the popular element should be in a minority. Even when joint consultations were allowed the Ministers being in a minority failed to

carry out the popular wishes in certain respects such as for instance tn appointment of an Indian to the Secretary's post. It is not enough to have Indians as Executive Councillors. They must also be responsible to the Council.

55. At present the Executive Government of the province consists of (1) Governor, (2) two Executive Councillors and (3) two Ministers.

It may perhaps be out of place to discuss in this note the advisability or otherwise of having as many as two Executive Councillors and two Ministers. That must be done separately. The popular element can be increased by making all or a much larger number of subjects as transferred.

56. So far I have dealt with two forms of dyarchies—the communal dyarchy in the Council and the administrative dyarchy in the Executive Government. Nothing further need be stated about the communal dyarchy. Under the second form of dyarchy the Ministers, though ostensibly parts of Government, are for all practical purposes reduced to the position of heads of departments and nothing more. They have no incentive to feel any interest in the well being of the Government as a whole.

57. Now I shall proceed to show that even as glorified or highly paid heads of departments the Ministers' powers are very much restricted. The Ministers are sandwiched between permanent heads of departments on the one part and the Governor on the other. To maintain their position as glorified heads the Ministers have to be at the mercy of these two forces between which they are sandwiched. The somewhat broad provisions contained in section 52 of the Government of India Act have been considerably whittled down by means of rules and orders issued by the Governor under section 49 (2) of the said Act. Under these rules or orders which have the practical effect of nullifying the Reforms the men in the permanent service of Government who for the time being happen to be the Commissioners of Divisions, or heads of the Departments or Secretaries to the Government are the virtual or *ipso facto* administrators. They can and often do challenge the propriety of the Ministers' orders and the Ministers can do them no harm even if their decisions or recommendations are ultimately negatived by the Governor.

58. Under section 52 (1) of the Government of India Act, Ministers are appointed for the purpose of administering transferred subjects. I understand this sub-section to mean that Ministers are entirely responsible for regulating both details as well as policies of transferred subjects. Though sub-section (3) of this section is differently worded from section 50 (1) of the Act in practice both must be construed as having the same meaning. High paid officers are appointed not simply for the purpose of giving advice but they must be responsible for shouldering the burden of administration.

59. To make sub-sections (1) and (3) of section 52 harmonize with each other the only reasonable interpretation that can be put on sub-section (3) is that the Governor may overrule the Ministers only where difference arises on broad question of principle or policy and when he (the Governor) believes that to accept the Minister's advice would seriously prejudice the interests of the provinces. Ordinarily, Ministers must be allowed to have their own way and the bludgeon provisions in the Act must be very rarely or sparingly used.

60. I frankly admit that so far as departments in my charge were concerned, His Excellency Sir Frank Sly generally did not attempt to overrule me so far as broad questions of policy were concerned. I have mentioned before that the Governor did not attempt to make any changes in the legislative measures which includes rules and by-laws framed under different enactments. I may mention a few other instances [to wit, (*a*) the introduction of vernacular as the medium of instructions, (*b*) the reorganization of the administrative branch of the Education department, (*c*) the transfer of dispensaries to the local bodies or private management, etc.] to show that so far as general policies and principles were concerned, I was allowed a free hand.

61. At the same time I must say that His Excellency did not invariably follow the same rule so far as details of administration were concerned. One would perhaps be surprised to hear that a Governor who was so generous as to allow a Minister to have his own policies should have taken a different course in regard to matters of detail. Unfortunately, however, it was so. It is here that the dyarchy was found to be most humiliating.

62. The reason is that rules framed or orders issued under section 49 (2) are not what they should be and tend to produce mischief in practice, thereunder the already strong position of the bureaucrats has become almost invincible. They can defy the Ministers. I shall cite a few instances to show how the heads of the departments or Commissioners of Divisions, or the Secretaries placed both the Governor as well as the Minister in a false or delicate position.

63. The various instances of interference that occurred during the term of my office have left an impression on my mind that the bureaucracy still wants to retain the control of the departments in their hands, they don't desire to accept the decisions of the Ministers whose position under the circumstances is reduced to that of mere post offices. I may go further and say that under the rules the Ministers' position is inferior to that of the heads of the departments.

64. If it is not contemplated to make any changes in the rules and orders issued under section 49 (2), then I think it is not necessary to retain Ministers. If they are retained at all, they should be responsible only for laying down policies and not for actual administration of the policies they lay down. For such work as they can do or are expected to do under the rules and orders issued under section 49 (2) a remuneration of rupee one a year or at the most Rs. 10 a month would suffice. This is not an afterthought with me. To the same effect I had written a letter to His Excellency when I was in office.

65. I have stated before that rules and orders issued under section 49 (2) are unworkable. The practical effect is to abrogate the spirit of the Act. Although ordinarily the Governor is expected to uphold the decisions of the Ministers except when they are manifestly unjust or perverse the Governor who belongs to bureaucracy did on several occasions upset the Minister's order in petty cases involving simple questions of facts. If Ministers are unfit to decide petty cases or simple questions of facts, they should be dismissed ; but so long as they are there no one except the Council should be allowed to question the propriety of their decision. At times I felt that my position was nothing more than that of office-bearers of local bodies who in the old régimes could be pulled by the ears by the Commissioners and the Deputy Commissioners.

66. Another impression I gained from the various orders which His Excellency passed in many cases was that he could not afford to displease on all occasions the departmental heads or Commissioners of Divisions. I don't think His Excellency had laid down any settled principle for dealing with cases disposed of by the Ministers. It is only in one class of cases that I observed something approaching a settled policy. My proposal with regard to punishment, withholding of increments, pensions, etc., of Imperial Service officers were generally upset except in one or two cases.

67. Otherwise the practice lacked uniformity. From the varied orders that were passed by His Excellency in individual cases I did not learn any new lessons in the art of administration or any administrative foresight. For instance, I could not picture to myself how a Governor could support my policy of non-interference with a Municipal Committee who wanted to hoist a national flag on Municipal office and how the same Governor could ask me to uphold an order of a Deputy Commissioner who had suspended Committee's resolution to the effect that its servants should put on *khaddar* dress.

68. The truth appears to be that the heads of the departments and others considered that their position was made strong by the rules and orders passed under section 49 of the Act. They did not lose a single opportunity of availing themselves of the provisions of these rules and orders and as a consequence they have become too strong to be controlled by the Ministers.

69. For the purposes of this note I don't think it necessary to refer to all the rules and orders passed under section 49. Reference to a few will suffice to prove the accuracy of the contentions mentioned before. Order 3, paragraph 98 (A-General), empowers the Executive Councillors or Ministers to dispose of on their own responsibility such cases only as are of *minor* importance. The expression "minor importance" is nowhere defined. Similarly, the expression "matters of importance" occurring in Order 7, paragraph 102, is nowhere defined. Owing to the absence of any definition of any of these two expressions coupled with the provisions contained in Order 7 and the very wide power conferred on the Secretaries by Order 8, cases which in my opinion were petty or simple or of no importance were taken to the Governor for final orders.

70. The most irritating or humiliating part of the whole business was that in cases in which my views differed from those of the heads of the departments or Commissioners I was asked to send the cases for the final orders of His Excellency. The evident meaning or object in each case was that I should either reconsider my views and bring them into line with those of the heads of the departments concerned or be prepared to face the penalty of an adverse decision by the Governor.

71. I always stuck to my views and generally did not change them on account of the influences that were brought to bear on me. I don't mean to say that His Excellency the Governor upset my decisions in every case. In some cases he upheld them, in some cases he upset them. Some cases were returned to me for final orders on consideration of His Excellency's remarks.

72. I don't know what the Executive Councillors and the other Minister think of these rules. Speaking for myself I was disappointed with the manner in which I was treated under the authority of these rules. In fact I felt several times that for an assertive Minister or for a person

who is desirous of going deeply into any case in order to be able to form an independent judgment of his own, it is impossible to work with any sense of dignity or prestige so long as these rules and orders remain in force.

73. Again these rules appear to be specially derogatory to the Minister. Under rule 10-A the heads of departments presumably concerned with transferred subjects can seek Governor's interview for discussion of any subject. Why such a rule is not made in regard to reserved subjects is not known.

74. Although the heads of departments are given the privilege of approaching the Governor directly. the rules confer no similar right on a Minister.

75. I have no recollection whether the Ministers were consulted about these rules and orders. Whether they were consulted or not is immaterial. We find that in practice they have been acted upon in a manner that is injurious to the growth of the proper spirit of responsible Government.

76. The long and short of these rules and orders is that (*a*) Ministers have a right to dispose of cases of minor importance only ; (*b*) in administrative matters Governor is the final authority ; (*c*) the opinion of Commissioners, heads of departments and Secretaries as regards the degree of importance of any case is final.

77. If I have rightly interpreted the situation then the fact that the Governor does not interfere with the broad outlines of Ministers' policies or that he upholds certain decisions of the Ministers lose much of their significance when we contrast it with the other facts that persons, who in the eyes of law are and must be subordinate to the Ministers, are empowered to challenge the decisions of the Ministers and that at times the Governor upsets the decisions. It is on account of the events of the latter kind that the people have gained an impression that the administration is for all practical purposes still under the exclusive control of bureaucracy. Under the circumstances, it is impossible for the Ministers to make any changes of importance except with the consent of bureaucracy. With these impressions prevailing all around it becomes difficult for the Ministers to carry the Council with them.

78. All the troubles that have arisen in the past against the Ministers and that will arise in future are due to the fact that Ministers are expected to do work of minor importance and for such minor work a highly paid agency is not necessary. If their salaries were votable, I believe the Executive Councillors will also share the same fate.

79. I feel confident that no one who has got any knowledge of the cases that were taken to the Governor can say that my decisions in those cases were perverse, or manifestly unjust or amounted to miscarriage of justice. If the records of those cases are examined even now I feel confident that the same verdict would be given by an independent judge. Even assuming that in some cases a different view could be taken that was by itself no ground for interference on the part of the Governor. Minister is a colleague of the Governor and not his subordinate. So long as Ministers' decisions were not inconsistent with settled policies or so long as Ministers were desirous of laying down policies through a continuous stream of decisions there should be no interference from outside. I believe my decisions were always dictated by this consideration.

80. In the non-co-operation days it was settled that a lenient view should be taken of boys who left schools or who failed to observe any departmental orders under the influence of political agitators. This policy may not have met with the approval of some departmental officers. In spite of this policy the head master of the Bhandara High School presumably acting under instructions from the Circle Inspector of Schools did not allow some boys to appear for the Matriculation Examination that was held in the month of March 1921. I did not like this order. The Director of Public Instruction who was not satisfied with my order asked me to withdraw it. On my refusing to do so the case was taken to the Governor who upset my order. Subsequently the Deputy Commissioner of Bhandara, a European Indian Civil Service, told me that the head master acted very tactlessly and indiscreetly in dealing with boys. Now, who has suffered, not only the boys but also the Ministers and the Government, because the policy was not carried out with the same liberal mind with which it was laid down.

81. To popularize female education it was settled that Indian ladies of recognized merits should be appointed as Head Mistresses of Government High Schools. When a vacancy occurred and when an Indian lady possessing all necessary qualifications was available my decision to appoint the lady as Head Mistress of the Amraoti Government High School was opposed by the Director of Public Instruction who asked for Governor's interference, but fortunately without success.

82. I observed that lot of money was unreasonably locked up in unremunerative advances given to public servants for purchasing motors. Therefore I looked into every case to satisfy myself if the advance was necessary in the interest of public service. I was unable to understand why the Principal of the Robertson College, Jubbulpore, who resides in free quarters provided by Government within a few paces from the College, should require a motor car for the efficient discharge of his duty as Principal.

83. Two Civil Surgeons wanted advances for purchasing motors. On a very careful enquiry I came to the conclusion that neither needed a motor for efficient discharge of his duties. On a reference by the Inspector-General of Civil Hospitals the Governor upset my orders.

84. Mr. Hyde, Executive Engineer, Nagpur, claimed Rs. 100 a month on account of conveyance allowance. On a careful enquiry I held that the travelling the Executive Engineer had to do was not so extensive as to justify grant of a special allowance. A similar application by his predecessor, Mr. N. R. Verma, was rejected by me. The Chief Engineer did not challenge my decision in Mr. Verma's case, but I was surprised to hear that on a reference from the Chief Engineer the Governor has upset my decision in Mr. Hyde's case.

85. We settled the policy that persons simply because they professed to be non-co-operators or because they held particular political views should, on that account only, be not excluded from local bodies either as members or as office bearers. In spite of this policy one Commissioner refused to confirm the election of a person as President simply because such person was a non-co-operator. Everybody knew that at subsequent elections the same person would be elected and some time it would be necessary to confirm his election. In spite of this Commissioner's order was confirmed by the Governor in the first instance.

86. The Commissioner, Nerbudda Division, had recommended that the Government bungalow for Commissioner at Pachmarhi should be fitted with teak wood ceiling at a cost of Rs. 1,200 or so. I did not think that the expenditure was necessary. Anybody could see that the matter was trifling or at any rate not of major importance. The Commissioner was informed accordingly. He did not accept the decision and wanted to know if it had received the assent of the Governor. The Governor did not interfere ultimately, but this shows the mentality of the bureaucracy towards the reforms or towards the Ministers.

87. I will cite one more case to show how interference by the Governor either of his own accord or at the instance of the Commissioner or heads of departments has weakened the Minister's position in the eyes of the public. Even the educated public believe that under the system the Ministers are practically impotent and can't do anything of importance.

We had made it a rule that was applicable equally to Europeans as well as to the Indians that the period of deputation on foreign service should be as short as possible. Mr. Muhammad Shufi, Superintendent, Urdu Normal School, Amraoti's application for a longer extension was rejected by me in accordance with this rule even though some of my personal friends had asked me to grant the extension.

I am told that His Excellency has upset my decision and allowed Mr. Muhammad Shufi to serve on deputation as Registrar of the Delhi University. I came to know about His Excellency's decision in this case after the last Council's elections were over. A friend of mine from Simla told me that one Mr. K. C. Roy of the Associated Press, who had approached His Excellency in behalf of Mr. Muhammad Shufi was very jubilant over my defeat in the election. He told my friend about this case and said that it was not difficult under the system to get Minister's order set aside by directly approaching the Governor. In his conversation Mr. Roy is reported to have described the Ministers as impotent.

88. I don't think it necessary to encumber this note further by multiplying these and other instances that will be found in the office records. The only inference one can draw is that the heads of the departments or Commissioners were anxious to force their views on the Ministers and the Governor had, at times, to yield to the former when he found that they were obstinate.

89. It is this dyarchy which was unbearable. It may reasonably be asked why under the circumstances I did not resign. As a matter of fact I was prevailed upon not to do so by my friends, officials as well as non-officials. The latter especially asked me to stick on to the last to gain personal experience and prove thereby the defects in the reforms.

90. As the Ministers are part of Government it is in the fitness of things that they should be consulted in all matters of importance connected with the administration as a whole or at least relating to the subjects in their charge. As the Ministers are responsible for administering subjects, they must have control over the services. I have referred to this matter incidentally before in this note. It will be discussed separately when the Lee Commission's report will be considered.

If you hold a man responsible for the efficiency of administration, he must also have some power for remunerating those who are actually connected with the spade work in the administration. People are remunerated

in different ways. Their services are rewarded by promotions to higher administrative posts or by means of periodical increments of salary or by means of conferral of honours and distinctions which are distributed twice a year.

With regard to the last my complaint is that I was never taken into confidence either by the heads of the departments in my charge or by His Excellency the Governor. It is true that I was not prevented from sending my recommendations. But there is no reason why the heads of the departments should be at liberty to send their recommendations directly to the Governor and ignore the Ministers altogether. Under section 52 of the Government of India Act the Governor has to act on the advice of his Ministers. How are the Ministers to give advice about the suitability of proposed recipients if the Ministers are kept in the dark and if the Governor chooses to take the subordinates of the Ministers into his confidence and act upon their recommendations.

If honours are conferred as they sometimes are conferred on unsuitable persons, the Ministers have to bear the brunt of adverse criticism. On the other hand, it is also believed that all rewards of any significance are within the gift of bureaucracy and not of popular representative. I am citing this instance not because my personal vanity is in any way wounded, but I cite it to show how dyarchy is pursued with vengeance and how Ministers are denied association with the distribution of rewards for administrative work.

91. When I first heard the word dyarchy I understood it to mean or imply a delegated or decentralized form of government under which the authority responsible for delegation has not totally abdicated its functions but has reserved to itself certain powers of superintendence, direction and control over the authority in whose favour the delegation is made. We had to suffer from this form of dyarchy also, but the effect of it was not felt to be so very shocking, irritating or humiliating as of the dyarchies within the province which I have described before.

92. As the Executive Councillors and the Ministers were not very communicative with each other, I cannot say in how many cases and in what class of cases local Government's proposals in other departments were interfered with by the Government of India or by the Secretary of State for India in Council. I know of one case, *viz.*, the Nagpur Flag Satyagraha, in which His Excellency the Governor and the Hon'ble the Home Member had to go to Simla to seek Government of India's advice.

93. In the departments in my charge there were occasions when mainly on account of the rules some proposals of the local Government on which official and non-official opinion was unanimous were either rejected by the higher authorities or delayed on account of late receipt of orders from higher authorities. I believe it was understood in the beginning that when local opinion in any provinces was unanimous there should be no interference from outside. In spite of this understanding rules framed under section 45A of the Government of India Act (*vide* Schedules III and IV attached to these rules) and published in the Manual of Business Procedure debar local Government even in Transferred departments from creating or abolishing or from increasing or reducing salaries attached to posts ordinarily held by " All India service men ".

94. Acting on the authority of this rule the Government of India rejected our proposal to amalgamate temporarily and till finances of the provinces improved the posts of the Inspector-General of Civil Hospitals and Director of Public Health. This interference was contrary to the letter as well as the spirit of the rules made under the same section. This interference frustrates the very object which the framers of the rules had in view in making medical relief and public health provincial and transferred subjects. If those to whom these departments are transferred thought that for the time being one officer would be able to manage these departments Government of India ought not to have interfered.

95. The rules above referred to debar local Governments from creating or abolishing posts. Curiously enough the word "abolish" is interpreted to mean temporary suspension for a period of six months or over. Such interpretations of these rules has put further unhappy restrictions on the usefulness of the reforms.

96. The non-official opinion in these provinces has been pressing for the abolition of the posts of the Superintending Engineers and the official and non-official opinion was in favour of reducing the number. Even in spite of this unanimous opinion the local Government could not make the change and had, on account of this rule, to go on incurring unnecessary expenditure on the staff.

Now the main object in making Public Works (Roads and Buildings) a provincial and transferred subject is to place on the provincial Government and the Ministers the responsibility for improvement of accommodation and development of communications. In the matter of the entertainment of the staff the local Government and Ministers must have absolute power.

97. In this connection I may mention that in actual working we find dyarchy not only between Provincial Governments and higher authorities, but we meet with intra-provincial dyarchy amongst different departments of Government. So far as communications are concerned, no difficulty has arisen so far, but so far as construction of buildings is concerned, each department claims that it should be responsible for granting administrative sanction for buildings required for the use of that particular department. In that case Ministers are reduced to the position of mere agents whose duty it is to supervise construction. They have no administrative and financial function. This has been a source of irritation in the past and is likely to be so in future if the distinction between "Reserved" and "Transferred" subjects is maintained.

98. Though on the one hand the rules made under section 45A restrict the Governor General's power of superintendence, control and direction in the matter of transferred subjects the same rules compel the local Governments to employ even in the transferred departments fixed number of Indian Medical Service officers in such appointments and on such terms and conditions as are prescribed by the Secretary of State for India in Council.

99. Though the Secretary of State or Government of India have to some extent relaxed their power of control over officers in the public service attached to provinces Minister's position is in no way bettered. Ministers can't enforce any disciplinary measures against such officers nor do the Ministers possess the power of posting such officers to places desired by

them (Ministers). In all these matters my decisions or suggestions were on many occasions upset by the Governor either in deference to the wishes of the officers concerned or in deference to the opinions of the heads of the departments.

100. Before I proceed to discuss the financial arrangements under the reforms I desire to state that for the purpose of transferring full responsibility or much more freedom to the Provincial Governments or especially to the Ministers it would not be enough simply to alter the provisions in the Government of India Act or the rules made thereunder. It will be necessary to examine Acts passed by the India Council or by the local Councils in order to see that in administrative matters the subordinate officers of Government are subject to the control of the local Government. After all it is the local Government that is called upon to account for acts and omissions not only its own, but also of its subordinates.

101. I am forced to make this suggestion on account of some instances that occurred during the term of my office. One alone will suffice to illustrate my views. It was the settled policy of Government to allow local bodies freedom in the administration of the statutory duties including appointments of their servants. In spite of this policy the Commissioner, Berar, refused to confirm the appointment of one man whom the Municipal Committee of Akola wanted to appoint as their Secretary. The Municipal Committee of Akola represented the matter to me for orders. On examination of the Berar Municipal Act, I found that the local Government had no power to revise the orders of the Commissioner and hence I had to reject the Committee's representation.

102. At the same time I requested the Commissioner of Berar to revise his order and bring it into line with the settled policy of Government. He was not obliging enough to consider my request sympathetically, and he refused to revise his order. I leave it to the readers of this note to draw their own inferences from this incident. I desire to make it clear that I am not in favour of excessive centralization of administration. For speedier and efficient administration decentralization on a liberal scale is necessary. All I wish to lay down is that in the administration of the province as a whole there must be something like a uniform system and the Provincial Government must have the statutory power to control its subordinates.

Finances.

103. During the three years of my term of office the provinces were suffering from financial stringency. It was only towards the end that some improvement became perceptible. That, however, was not much. Consequently Executive Councillors and Ministers did not think it worth while to fight for allocation of funds by making a few changes here and there.

104. Mainly in consequence of financial stringency general attention was directed towards economy and retrenchment. Although there was a general desire for retrenchment individual Council members did, at times, espouse the cause of one or the other classes of Government servants for increment of their salaries.

105. For this claim for increase Government was in a way responsible. either in the pre-reform days or afterwards heads of the departments

or the members of Government do not appear to have acted in concert with each other. Different scales of salaries were fixed for different departments although outwardly the qualifications of the incumbents and the nature of their duties were very nearly similar. This ostensibly different treatment did not fail to create departmental jealousies, so much so that it often became very difficult to say where in each case justice ended and where exaggerations commenced.

106. As there was a financial stringency, the Cabinet discussions relating to budget before it was submitted to the Council used to be more or less of a formal character. The discussions in the Council on budget were principally directed towards retrenchment. Sometimes the desire for retrenchment was carried to extreme without due regard to the obligation the Government had incurred. One suit was filed against Government for damages for loss of service. The suit was dismissed but one must learn a lesson therefrom.

107. Councils are given extensive powers for rejecting or reducing demands and this power is likely to be exercised to the prejudice of men in the permanent service of Government or of those who are engaged on special contracts. The desire for economy is associated with suspicion that prevails in some quarters that in the matter of departmental expenditure executive Government is extravagant.

108. In the interest of stability and to avoid hardship in individual cases and to give the Council more effective control over departmental expenditure it would, I think be better if the strength of each department and scales of salaries of different cadres were fixed by an Act of the legislature. This suggestion needs further scrutiny or examination, but until some such step is taken it would be difficult to check the annual vagaries.

109. Under the present Act Council's powers in regard to budgets are in certain respects curtailed. The Council has no control over receipts and has no power to appropriate or readjust expenditure under different heads. I believe under the old Act the Councils in pre-reform days could reduce or increase estimates under " Receipts " and could also appropriate or readjust expenditure. Why this power was taken away from the new Council I don't know.

110. Receipts under certain heads are fixed by statutes while others are derived under the authority of statutes, but the scales are fixed by rules which are framed by the Executive Government. Councils may be given some greater control over the latter classes of receipts.

111. It is true that rules are published for public criticism. They are also published in the official gazettes, copies of which are supplied to the Council members. My experience it that very few people take notice of these rules. Even if some take notice of these rules their criticisms are not openly discussed. It is therefore worth consideration if it would not be proper to discuss such rules beforehand in the Council.

112. I was not in charge of the Finance Department and had very few opportunities to study its working. I am not therefore in a position to offer any useful criticism. I can, however, say that owing to the distinction between reserved and transferred subjects disputes between two halves of Government are quite conceivable. Differences did arise between me and the Finance Department on the question relating to circumstances under which the temporary service of a Government servant should be

counted towards pension. My recollection is that the cases involved pure questions of fact and ordinarily my view as the head of the department should have prevailed, but that was not so. I believe the Finance Department carried the day.

113. Finance as such is neither a "Reserved" nor a "Transferred" subject. Finance Department is created, under rules framed under section 45A of the Act. Under these rules the department is placed under the control of a member of the Executive Council. Finance Member is appointed by the Governor and he is the *ex-officio* Chairman of the Committee on Public Accounts.

114. So far as I see, the rule, if it provides that the Finance Department shall be under the control of a Minister, shall not be void nor is there anything that would make the appointment of Minister as Finance Member illegal. If in financial matters control is transferred to Ministers, it would be a great step forward and would go a great way to allay public discontent.

115. Similarly, as an intermediate step or as a temporary measure control in certain revenue matters can be transferred to the popular half of Government by appointing Ministers to discharge the functions of "Financial Commissioner". At present these functions are divided between the two members of the Executive Council.

116. It may not be understood from the remarks hereinbefore contained that I fail to appreciate the importance of the heads of departments. I recognize that men in the permanent service who have got practical experience of day to day administration should have a right by advice to influence the policy of Government, but they must not dictate policies to Government and must be prepared to accept dutifully whatever orders are passed by the Ministers.

117. I hope I have confined my remarks within the purview of Government of India's letter. I have not deemed it fit to discuss other broader questions relating to political or administrative reforms. They must be discussed separately. I have expressed in this note my personal experience only. I now summarise my proposals :—

(*a*) The Council should be reconstituted by—

(*i*) removing therefrom class and communal representation.

(*ii*) removing official element.

(*iii*) by increasing representation of educated classes or of interests which require technical knowledge.

(*iv*) prescribing much higher qualifications for members.

(*b*) The functions of the Councils as distinguished from those of Executive Government should be clearly defined.

(*c*) The members of the departmental Standing Committees should be allowed greater facilities for coming into closer touch with administrative details and the Ministers should have complete freedom to place before the Standing Committees such questions for advice as they think fit.

(*d*) Council Secretaries should be appointed out of a panel selected by the Council.

(*e*) So long as parties on constitutional lines are not organized the same procedure may be adopted in the matter of appointment of Ministers.

(*f*) The distinction between "Reserved" and "Transferred" subjects may be abolished and all subjects may be transferred or in the alternative a larger number of subjects may be transferred with the evident idea of reducing the number of Executive Councillors and increasing the number of Ministers. Devolution Rule No. 6 may be amended accordingly.

(*g*) Ministers should be kept in touch with the working of other departments. They should have access to all papers confidential or otherwise even though they do not relate to the subjects in their charge or are not concerned with any case pending disposal before them.

(*h*) The system of joint consultation in all matters of principle and policy or any important administrative measure should be made universal and compulsory and in all Cabinet discussions the Ministers should not only have voice, but they should have votes irrespective of the fact that the subject is reserved or transferred.

(*j*) If the distinction between "Reserved" and "Transferred" subjects is retained then let the transfer be real and not nominal. The Ministers should not be mere advisers to the Governor, but they must be real administrators responsible both for policies as well as for details.

(*k*) In the matter of policies the Ministers ordinarily should be subordinate to the Legislative Council and when they are supported by the Council Governor should not interfere except perhaps under the circumstances mentioned in section 50 (2) of the Act.

(*l*) In matters of detail Minister's orders should be final and not subject to revision by the Governor nor should they be liable to be called into question by the heads of departments, Commissioners of Divisions or by Secretaries. This rule should hold good even though orders relate to disciplinary measures against public servants of all classes or to their posting to any place.

(*m*) Councils may be given more control over receipts, especially those that are received under the authority of rules or executive instructions.

(*n*) The legality of the proposal to appoint a Minister as a Finance Member and placing the Finance Department under his control may be considered.

(*o*) To vest in the Ministers certain amount of control over subjects which are "Reserved" by appointing them to discharge the functions of Financial Commissioner.

(*p*) To amend the provisions of Acts with a view to place the subordinate Government servants under the administrative control of Government.

Supplementary Note.

118. From what I have stated in the original note, it is clear that no serious effort was made to foster or develop the habit of joint consultation. I am prepared to concede that this was probably due to our inexperience or ignorance of Parliamentary procedures. It is, however, not safe to allow this state of affairs to continue any longer. I am convinced that Rules under Section 49 of the Government of India Act, must be so framed as to make joint consultation compulsory in all matters of Principles and Policies, and also in certain matters of important administrative details which concern more than one department in the two halves of Government.

119. In some cases the questions that crop up are so interallied that in the interest of all concerned it is essential that no action should be taken in the absence of joint consultation.

120. Under the present system the "Appointments Department" is a reserved subject even though such appointments relate to Transferred Subjects. The word "appointment" includes dismissals and punishments, and therefore the right to enforce any disciplinary measure against any Government servant, is presumably vested in the "Appointment Department". In the case of officers belonging to—"All India" and "Provincial" services, the ultimate authority is vested in the Governor.

121. Although the Appointment Department is treated as a part of Reserved half of Government, the persons appointed do, as a matter of fact, serve in various departments Reserved or Transferred. Under such circumstances, one can easily see how joint consultation is necessary. One illustration will I think, suffice.

122. Towards the end of 1922 or in the beginning of 1923, District Councils and local Boards' elections were held in these Provinces. Under the rules, the Revenue Officers attached to the Districts are responsible for the conduct of these elections. In one District, *viz.*, Narsingpur, it was alleged openly in public press that the District Revenue Officers were making strenuous efforts with a view to exclude non-co-operators from the local Bodies.

As a Minister in charge of the "local Self-Government" Department, I was interested to see that the Elections to the local Bodies were absolutely free from any kind of official pressure or interference. The allegations in the public press appeared to me to be of a serious nature, and therefore I sent the extracts from the papers to the Deputy Commissioner for report. The Deputy Commissioner reported that the allegations were false. At the same time he recommended that as the allegations were such as were usually made by irresponsible critics, no action was necessary.

Subsequently I heard that the Home Member who was in charge of "Law and Justice" had ordered the prosecution of several persons who had made serious allegations against certain Government servants. I do not mean to say that Government servants should not be protected against virulent attacks, but what I think is that prosecution is not the only method by means of which the honour and prestige of Government servants can be maintained.

Although the Home Member had sanctioned the prosecution on his own responsibility, and without my knowledge and consent, I was mercilessly criticised in the press for not having stopped these wholesale prosecutions that arose out of *elections* which ought to be under the control of the Minister in charge of the local Self-Government department.

When the Executive agency is the same, it is essential that all orders in such cases must issue from the Government as a whole. Popular half of Government must not be made to suffer on account of something done by the Reserved half on its own responsibility.

123. It is easily conceivable that there are several matters in regard to which it is very difficult, if not impossible, to lay down hard and fast rules. In such cases more proper and prudent course is to build up conventions. As far as I see, it would be exceedingly unlikely to build up such conventions, so long as the Government remains divided into Reserved and Transferred departments.

124. Some of the transferred departments such as Education and Village sanitation have actually suffered in consequence of this dyarchy, or the distinction between the Reserved and the Transferred subjects.

Formerly the District Executive or Revenue Officers used to take great interest in securing, by means of Executive actions the attendance of children in Primary schools, and in looking after village sanitation. Now-a-days they do not do so, and it has come to my ears from a very reliable source that they refuse to do so, as they believe that since they belong mainly to Reserved department, it is no part of their duty to do anything in connection with any Transferred departments. Since the Ministers have got no Executive or Disciplinary control over the service, they cannot require the servants to work according to their (Ministers') wishes.

125. Government servants must know precisely how they stand, and whose orders they should obey and in what order. This they cannot do at present. Their help to the Transferred departments has not been of material value.

Gradual developments of self-governing institutions is one of the principal steps towards the establishment of responsible Government. This provision contained in the Preamble to the Government of India Act, 1919, has practically remained a dead letter. It is a recognized principle that in this country, Village Panchayets ought to be the unit of Administration. Although the Panchayet Act was passed nearly four years ago, very meagre progress has been made so far, in establishing Panchayets. For want of agency directly responsible to Ministers or owing to an undivided responsibility to the Government as a whole, I was unable to make any progress in this direction.

126. These are some of the defects which I have noticed in the practical working of dyarchy. There is not merely a division of authority, but there is division of allegiance on the part of service to different halves of Government. If all subjects are made transferred, these defects or difficulties would be greatly minimised.

127. I was not in charge of Agricultural and Industries Departments and therefore I cannot speak from personal knowledge or from practical experience, how far the Reservation of Irrigation, Land Revenue, Forest, Mining, and various other matters specified in item 26 of Part II, Schedule I of the Devolution Rules, interferes with the Ministers' responsibility for the development of Agriculture and Industries. As a general principle, I think all subjects which are closely allied to each other, should form part of one group Reserved or Transferred, preferably the latter.

128. In this or in the previous note, I have not attempted to examine in detail the various provisions in the Act, or in the rules made thereunder. Such examination would be necessary after final decisions are arrived at on the various points contained in paragraph 118 of my printed note herewith sent.

N. K. KELKAR.

LETTER FROM A. E. NELSON, ESQ., C.I.E., O.B.E., I.C.S., CHIEF SECRETARY TO GOVERNMENT, CENTRAL PROVINCES, POLITICAL AND MILITARY DEPARTMENT, TO THE SECRETARY TO THE GOVERNMENT OF INDIA, HOME DEPARTMENT, SIMLA, No. C.|387, DATED PACHMARHI, THE 29TH OCTOBER 1924.

SUBJECT :—*Working of the reformed system of Government.*

I am directed to refer to my confidential letter no. 2931, dated the 7th July 1924, on the subject of the working of the Reformed system of Government. Since that letter was written the local Government has been supplied with copies of the evidence given before the Reforms Enquiry Committee by the two *ex*-Ministers of this province—Mr. S. M. Chitnavis and Rao Bahadur N. K. Kelkar, and the local Government considers it desirable to submit a supplementary memorandum dealing briefly with some of the matters referred to by the two witnesses.

2. Prominence is given in the evidence of the *ex*-Ministers to what they regard as four main defects in the working of dyarchy in this province,—*viz.*,

A.—The excessive control of the Governor over his Ministers.

B.—The excessive control exercised by the Finance Department.

C.—The powerlessness of the Minister in connection with service questions.

D.—The control over legislation.

I am to set forth briefly the point of view of the local Government under each of these heads.

A.—Excessive control of the Governor over his Ministers—

3. Apart from the Government of India, Act, the rules thereunder and the Instrument of Instructions, the control of the Governor is provided for under the following orders of the Manual of Business Procedure :—

Order 3.—(1) Cases of minor importance shall ordinarily be disposed of by, or under the authority of, the member or minister in charge.

(2) The secretary in each department shall submit to the Governor a weekly table showing particulars of all cases which have been disposed of by, or under the authority of, the member or minister in charge.

Order 4.—The following cases shall be submitted to the Governor after consideration by the member or minister in charge and before the issue of orders, namely :—

(*a*) all proposed resolutions on administration reports ;

(*b*) all proposed circulars embodying important principles or changes ;

(*c*) all correspondence with the Government of India, the High Court or any public association recognised by Government except correspondence on routine matters ;

(*d*) all proposals involving legislation, the imposition of taxation or the raising of a loan ;

(*e*) all proposals involving the creation and abolition of any public office shown in Schedule I or the fixation of its emoluments ;

(*f*) cases concerning the punishment or dismissal of officials in receipt of pay in excess of Rs. 100 p. m. in which the member or minister proposes to reverse or vary the order of the Commissioner or Head of Department concerned ;

(*g*) all proposed answers to question to be asked in the Legislative Council ;

(*h*) all cases which the member or minister in charge considers to be of major importance ; and

(*i*) any case or class of cases which the Governor specially directs to be submitted to him.

Order 5.—All proposals for first appointment of an officer belonging to some other service to an All-India Service or for appointment of a member of the Bar to a post ordinarily held by a member of the Indian Civil Service, and for all first appointments to a Provincial Service, shall be submitted to the Governor by the member or minister in charge of the department concerned.

Order 7.—Where it is proposed in any department to negative the recommendations, or to overrule the decision of a Commissioner of a Division or a Head of a Department in any matter of importance, the consent of the Governor shall be obtained before any orders to that effect are issued.

Provided that such consent need not be obtained in either of the following cases, namely

(*a*) where the local Government while differing from a subordinate authority, express their view in the form not of an order but of a suggestion ; or

(*b*) where the proposals of a subordinate authority contravene standing orders or accepted principles, and the reply of the local Government merely refers to such orders or principles.

The complaint of excessive control made by the *ex*-Ministers appears to be based more on theoretical objections to these rules than to their practical working. A list is attached to this letter shewing the cases in which the Governor disagreed with the orders or recommendations of his

Ministers. It will be observed that cases Nos. (1) to (8) relate to the pay, pension or posting of officers of the All-India Services. It is also to be observed that on no question of general policy was either Minister overruled by the Governor. It has already been explained in paragraph 2 of my letter referred to above that the absence of friction over matters of policy may have been partially due to the absence of the party system, which prevented a Minister from taking a firm attitude in the expectation that he would be backed by a majority in the Council. However that may be, the Ministers, as admitted by them in their evidence, did inaugurate several important changes of policy in their departments, and in carrying out these changes received the cordial co-operation of the Governor and the permanent officials. As instances may be quoted the prohibition policy in the Excise Department, the teaching of English through the medium of the vernacular in the Education Department, and the transfer of dispensaries to local bodies or private management in the Medical Department.

B.—The excessive control exercised by the Finance Department—

4. Here again the charges brought against the Finance Department appear to be based on theoretical grounds rather than on specific complaints of obstruction. The specific cases quoted in evidence are dealt with in paragraph 7 (*f*) and (*g*) below. As explained in paragraph 5 of my letter above referred to supplemented by my letter no. C.-253, dated the 3rd October 1924, the functions of the Finance Department are advisory only. In minor matters the decision is taken by the Minister himself or by the Governor acting with his Minister. Matters of importance are discussed at a meeting of all members of the executive Government, but after the discussion the final order is passed by the Governor acting with his Minister. The objections which have been urged against the Finance Department being under the control of a Member of the Executive Council, who is liable to be biassed in favour of reserved departments, are the Governor-in-Council considers, more sentimental than real. But if it is desired to remove any ground for suspicion, it would be possible in this province to transfer the Department to the portfolio of the Governor, with whom the Financial Secretary will work direct. Proposals for the separate purse system or for a joint Financial Secretary have not hitherto found favour either with members or ministers in this province.

C.—The powerlessness of Ministers in connection with Service questions—

5. The exercise of authority over members of public services is regulated by Rule 10 of the Devolution Rules. The prescribed procedure has been followed in this province. Under Order 17 of the Manual of Business Procedure, cases relating to the appointments to certain superior posts are required to be brought before a meeting of the Executive Council. As a matter of courtesy the Governor consulted Ministers also regarding appointments of this nature which fell within their departments. An examination of the list of cases referred to in paragraph 3 would show that, had the Governor accepted the Minister's recommendations in certain cases, he would have failed to carry out the instruction in his Instrument of Instructions " to safeguard all members of our services in the legitimate exercise of their functions and in the enjoyment of all recognised rights and privileges." Some of the friction which occurred in connection with service questions, was caused by the desire of one Minister to promote and transfer Indian members of services to posts, irrespective of their claims on

account of seniority or merit, on the ground that it was necessary under the Reformed system of Government to give Indians the amplest opportunities for training. The Governor refused to accept such recommendations to the detriment of the European members of the Services, holding that promotions and transfers in a service should be made irrespective of the race of individual members.

In the supplementary note to his written evidence, Mr. Kelkar quotes three instances in which he asserts that the executive officers of Government have deliberately refused to help in the carrying out of a policy because they knew it emanated from a Minister. The cases are :—

(*a*) The attendance of children in primary schools.

(*b*) Village sanitation.

(*c*) Development of Village Panchayats.

The Governor in Council is satisfied that there is no foundation for these allegations. The executive officers of Government have not distinguished between orders emanating from the reserved and transferred halves of Government—in all cases they have loyally carried out the prescribed policy.

D.—The control over legislation—

6. The control over provincial legislation by the Government of India has been dealt with in this Government's letter no. 228, dated the 26th July 1924, to the Government of India, Legislative Department. One or two cases occurred in which through oversight legislation was proposed in reserved departments without the proposals being shown to Ministers, but as soon as this was brought to notice, the following order was added to the Manual of Business Procedure :—

Order No. 41-A.—" All proposals for legislation shall be discussed at a meeting of all Members of the Government before submission to the Government of India."

7. I am now to deal with certain matters of detail referred to in the evidence.

(a) Rules regarding submission of cases to Standing Committees—

(*a*) *Paragraph 117 (c) of Mr. Kelkar's written evidence.*—The standing orders regarding Standing Committees in this province are as follows :—

Standing Committees are attached under the orders of His Excellency the Governor to the following departments :—

(1) Judicial, Police, Jails and General Administration.

(2) Land Revenue, Settlements and Land Records.

(3) Forests.

(4) Irrigation.

(5) Public Works and Local Self-Government.

(6) Public Health and Medical Relief.

(7) Education.

(8) Co-operative Credit.

(9) Excise.

(*b*) The Member or Minister in charge of the department concerned will be Chairman. The head of the department concerned, if not a member of the Committee will be invited to attend the meeting of the Standing Committee when any matter connected with his department is to be discussed. The departmental Secretary will be Secretary to the Committee.

(*c*) The following matters shall be laid before the Standing Committees :—

(*a*) all major questions of departmental policy ;

(*b*) all schemes involving large expenditure ;

(*c*) any other matters concerning the department on which the Member or Minister in charge may desire their opinion ;

Provided that—

(*i*) in cases of urgency a reference to the Committee may be dispensed with ;

(*ii*) the following cases shall be excluded from the purview of the Committee :—

(*a*) cases concerning appointments ;

(*b*) all cases which the Member or Minister in charge, with the concurrence of the Governor, considers cannot be submitted to them consistently with the public interest.

(*d*) The functions of the Standing Committees will be advisory only.

(*e*) Meetings of Standing Committees will be summoned by the Secretary under the direction of the Member or Minister in charge. They should ordinarily be held during or just before or after the sessions of the Legislative Council.

(*f*) The Member or Minister in charge will note on each file if he requires it to be referred to the Standing Committee. The Under Secretary, as each file is received, will enter it on an agenda list. The agenda list will be submitted by the Under Secretary to the Secretary not less than ten days before the date on which the Standing Committee will sit. The Secretary will then take the orders of the Member or Minister on the list and add to it any matters on which the Member or Minister wishes to consult the Committee. He will also submit it to His Excellency the Governor for information.

(*g*) The agenda will be circulated by the Secretary together with a memorandum explaining the nature of each item of the business and copies of such papers as the Member or Minister in charge directs to be furnished to the Committee. Such papers will be returned by the members to the Secretary at the close of the meeting. The proceedings of the Committee will be confined to the agenda and any requests for further information will be dealt with under the orders of the Member or Minister in charge. In no circumstances are departmental notes either past or current to be circulated to the Committee.

(*h*) All agenda will, as far as possible, be communicated to the members not less than eight days before the date fixed for the meeting. The Under Secretary will be responsible for seeing that files are placed in the order of the agenda and are submitted, with the agenda list, to the Secretary two days before the Committee sits.

(*i*) At the meeting of a Standing Committee the Secretary will explain the case and will be entitled to take part in the discussion, representing the departmental view before the Committee. The Chairman will then invite a discussion and the Secretary will note on the departmental file the general opinion of the Committee. A memorandum of the proceedings will also be taken and will be circulated to members of the Committee only.

(*j*) Members of the Standing Committees who attend meetings should send their travelling allowance bills to the Secretariat for counter-signature.

The Governor-in Council does not consider that this procedure can afford any reasonable ground for complaint.

(b) Access of Ministers to papers—

Paragraph 117 (g) of Mr. Kelkar's written evidence.—The rule in force in this province is Order No. 29 in the Manual of Business Procedure which runs as follows :—

(1) A minister may call for papers in any other department, whether reserved or transferred, if they are required for the disposal of a case in his department.

(2) When papers are so called for, the requisition shall be dealt with under the orders of the member or minister in charge.

Note.—If a requisition is received by one department from another department for official records which include any papers marked secret, the Secretary should take the orders of the Minister in charge before complying with such requisition.

There is no record of either Minister having been refused access to papers.

(c) Access of Secretaries and Heads of Departments to the Governor—

Paragraph 117 (l) of Mr. Kelkar's written evidence.—The Secretariat procedure is governed by Orders nos. 8, 9 and 10A which run as follows :—

No. 8.—Any case may, at any stage, if the Secretary in the department to which the case belongs thinks fit, be submitted by him to the Governor :

Provided that when a case is so submitted to the Governor, the member or minister in charge shall be at once informed of the fact by the Secretary.

No. 9.—Cases of a routine or unimportant character may be disposed of by the Secretary :

Provided that a weekly list of all cases so disposed of shall be submitted to the member or minister in charge. The member or minister may send for any case entered in such list, and may take any action which he considers necessary with reference to it in accordance with these orders.

No. 10A.—If the Head of a Department desires to discuss any subject with the Governor he may make a request for an appointment, and shall, at the same time, inform the Minister concerned of what he has done, and of the subject he proposes to discuss.

The intention of these rules is quite clear.' It is to enable the Governor to fulfil the responsibilities imposed on him by the Government of India Act and the rules thereunder and by his Instrument of Instructions. It is impossible for the Governor to fulfil these responsibilities unless he is kept in touch with the work of the various departments. The suggestion that the Secretaries were in the habit of going behind the back of the Minister in order to secure a revocation of his order by the Governor is incorrect. It was the practice of the Governor to refer back a case for reconsideration to the Minister, where he differed from him.

(d) Administrative powers to sanction buildings—

Paragraph 97 of Mr. Kelkar's written evidence.—Mr. Kelkar claims that the Minister, Public Works Department, should have the right to give administrative approval for the construction of buildings of all departments.

The order of the Governor on this question ran as follows :—

> 'The Public Works Department Minister cannot be considered the "agent" for the construction of buildings, etc., required by other departments. He is responsible for all public works.
>
> 'I do not propose to entrust any department with the construction and maintenance of its own buildings, except in so far as this had already been done in the Irrigation Department and certain Forest Department works.
>
> 'The Public Works Department budget will thus continue to include provision for all works required by the various departments, with the exceptions stated above. The Public Works Department Minister will be responsible for this budget. The whole expenditure will be treated as "transferred".
>
> 'Administrative sanction to any particular work will continue to be given by the Head of the Department concerned. It is obvious that he is the only authority who can decide whether a particular work in his department is required or not. But it will rest with the Public Works Department Minister to decide whether such work would or should not be included in the Public Works Department budget, subject to the usual Cabinet discussion.'

The Governor in Council believes that the order is in accordance with the intention of the Act and the rules thereunder.

(e) Prosecution for defamation in Narsinghpur case connected with Local Board elections—

Paragraph 122 of Mr. Kelkar's written evidence.—Mr. Kelkar complains that he was not consulted when these prosecutions were initiated. The case related to charges of defamation arising out of statements made against local officers during the elections to local bodies, but was not concerned with the working of local self-government. It was dealt with by the Home Member (Sir Moropant Joshi) in consultation with the Governor. It is not clear why Mr. Kelkar should have been consulted and in any case he made no complaint at the time.

(f) Loan for construction of a Science College—

Page 13 of Mr. Kelkar's oral evidence.—In this matter Mr. Kelkar complains of obstruction by the Finance Department. An examination of the record shows the complaint to be without foundation. The Finance Department gave its view on the proposal having regard to the financial position but made no objection on the ground that the proposed expenditure would not be remunerative. The Governor ordered the proposal to be circulated to all members of the Government after Mr. Kelkar had recorded his views. Mr. Kelkar directed that the case should be kept pending until the election of the new Legislative Council was completed, during which he lost his seat. Subsequently, the local Government has directed that provision of funds for this project out of current revenues should be made in the next budget.

(g) Counting temporary service for pension—

Paragraph 112 of Mr. Kelkar's written evidence.—This is case no. (13) in the list referred to in paragraph 3 above. Mr. Kelkar bases a complaint against the Finance Department on this case, but it is to be observed that Mr. Kelkar was not overruled by the Finance Department but by the Governor after the case had been circulated for the opinion of other members of Government.

(h) Grant of honours—

Paragraph 90 of Mr. Kelkar's written evidence.—The Governor's reply to Mr. Kelkar's protest regarding the grant of honours was as follows :—

> As regards the Hon'ble Minister's remarks about recommendations for titles, he does not understand the constitutional position. These titles are conferred by the King or by the Viceroy, and not by the Government. Recommendations are made by me in my individual capacity as Governor and not by the local Government. I am ready to consider any recommendation that the Hon'ble Minister may wish to make along with the recommendations received from other persons, but I cannot agree to consult any member of the Government in regard to my recommendations ; indeed I am precluded from doing so by the general instructions, which direct me to keep my recommendations absolutely confidential.

The statement that Secretaries are consulted regarding the bestowal of honours is incorrect.

(i) Resignation of Mr. Kelkar—

Page 50 of Mr. Kelkar's oral evidence.—On no occasion did Mr. Kelkar tender, either orally or in writing, his resignation to the Governor.

(j) The non-supply of the fortnightly confidential reports submitted to the Government of India—

Paragraph 37 of Mr. Kelkar's written evidence.—These are supplied to all members of the Government. There was an interval when, owing to the death of a confidential clerk, the supply was discontinued. Had Mr. Kelkar mentioned the matter, the mistake would at once have been rectified.

(k) Transfer of public works to local bodies—

Page 64 of Mr. Kelkar's oral evidence.—Mr. Kelkar asserts that the delay in carrying out the transfer was due to the obstruction of officers in the department. The charge has no justification. The officers of the department objected, as they were fully entitled to, to their services being transferred to local bodies, but the Government of India had foreseen this and stated that they assumed the transfer would be a gradual one. A sudden wholesale transfer of the Public Works Department to local bodies was clearly not possible.

(l) Conveyance allowance to Mr. Hyde, extension of Mr. Sufi's deputation as Registrar, Delhi University, motor car advance for Principal, Robertson College—

Paragraphs 82, 84 and 87 of Mr. Kelkar's written evidence.—Mr. Kelkar complains of being overruled in these matters but an examination of the cases shows the statement to be inaccurate. The conveyance allowance to Mr. Hyde was refused. Mr. Sufi's case was dealt with after Mr. Kelkar ceased to be Minister. Mr. Kelkar's objection to the motor car advance to the Principal, Robertson College, was made after it had been sanctioned.

(m) Suspension of resolution of Municipal Committee requiring all their servants to wear khaddar—

Paragraph 67 of Mr. Kelkar's written evidence.—Owing to Mr. Kelkar mislaying the papers this case never reached a decision.

Summary of cases in which His Excellency has overruled his Ministers

(1) Mr. Durie, Superintending Engineer's pension case.

(2) Mr. Desmond, Superintending Engineer's increment.

(3) Mr. Phear, Executive Engineer's pension case.

(4) Mr. Desmond's pension case.

(5) Mr. Davison, Executive Engineer's increment case.

(6) Selection of Col. Oxley as Civil Surgeon, Nagpur, in preference to Col. Chitale.

(7) Grant of special pay to Col. Stokes while holding the appointment of Inspector General of Civil Hospitals, in addition to his own duties.

(8) Allowances for I. M. S. officers.

(9) Grant of motor car advances to three European Civil Surgeons.

(10) Continuance of lease of Pachmarhi hotel in favour of Mr. Rodrigues.

(11) Recovery of rent for quarters of clerks and peons at Pachmarhi from Heads of Departments.

(12) Throwing open of wells in compounds of Rest Houses for the use of neighbourhood.

(13) Counting for pension of temporary service of Baboo Atmaram Eknath Babrekar, a Clerk in the Public Works Department.

(14) The order of the Commissioner, Chhattisgarh Division, refusing to confirm the election of Raghavendra Rao as President of the Bilaspur Municipal Committee.

Memorandum by Mr. J. E. C. Jukes, C.I.E., I.C.S., officer-on-special duty in the Finance Department, Government of India.

The possibility and desirability of increasing the financial autonomy of local Governments under the Government of India Act as it now stands.

PART I.—THE PRESENT POSITION.

Before discussing the possibility of increasing the financial autonomy of local Governments, it is essential to form a clear idea of the degree of autonomy which they now possess. The first part of this memorandum will therefore be devoted to an exposition of the existing position.

2. *The position prior to the Reforms.*—Prior to the passing of the Government of India Act of 1919, local Governments had no sort of statutory right or title to receive or to spend any part of the revenues of India. The old Provincial Settlements, under which local Governments were provided with certain sources of revenue and required to meet from them certain categories of expenditure, were nothing more than domestic arrangements between the central and local Governments, which derived their validity from the sanction accorded to them by the Secretary of State in Council.

3. *The statutory position created by the Act of 1919.*—The position was entirely changed by the passage of the Act of 1919. Sub-clauses (*a*) and (*b*) of clause (1) of section 45A of that Act authorised provision by rule for the classification of subjects, in relation to the functions of government, as provincial subjects; for the devolution of authority in respect of provincial subjects to local Governments; and for the allocation of revenues or other moneys to those governments from which to meet their new responsibilities. Clause (2) of the same section emphasised the fact that the contemplated rules might regulate the extent and conditions of such devolution and allocation. It is important to note that it was not essential that any restrictive regulations should be passed and that, so far as section 45A of the Act was concerned, the rules made under it might have granted to local Governments complete provincial autonomy in respect of provincial subjects. It must be added, however, that, in the absence of express provision to the contrary, such autonomy must have remained subject to the restrictions of sections 2 (2) and 33 of the Act, which empower the Secretary of State and the Governor General in Council, respectively, to superintend, direct and control, among other things, the civil government of the local Governments. Other sections of the Act which might have operated to restrict provincial autonomy in financial matters were the following:—

(*a*) Section 21 gives to the Secretary of State in Council full control over all expenditure from the revenues of India.

(*b*) Section 30 (1A) provides for rules governing the borrowing of money on the security of provincial revenues.

(*c*) Section 80A (3) (*a*) requires the sanction of the Governor General in Council to a provincial law authorising the raising of a new tax other than a tax scheduled by rule as exempted from this provision.

(*d*) Section 96B (2) empowers the Secretary of State in Council to make rules regulating the conditions of Government service in India. Such rules, by imposing limits upon the remuneration of various kinds which might be paid to persons employed by local Governments, could impose real restrictions upon the financial powers of those Governments.

(*e*) Section 96D (1) authorises the provision by rule for the powers and duties of the Auditor General in India, and such powers might well impose restrictions upon the financial autonomy of local Governments.

4. *The position after the exercise of the various powers of rule-making brought into being by the Act of 1919.*—Such being the statutory possibilities brought into being by the Act of 1919, it remains to inquire to what extent they were modified by the rules actually made under the Act. The main body of rules in this connection is contained in the Devolution Rules, which were made under section 45A of the Act in order to regulate the extent and conditions of devolution of authority and allocation of revenues. The following Devolution Rules are of special importance in relation to financial autonomy :—

(*a*) *Rule 3 and the Schedules underlying it.*—
These regulate the classification of subjects.

(*b*) *Rule 13.*—
This delegates authority in respect of provincial subjects ; but expressly saves, in the case of other than transferred subjects, the powers of superintendence, direction and control vested in the Governor General in Council by section 33 of the Act.

(*c*) *Rule 14.*—
This specifies the sources of provincial revenue. It should be noted that it includes the proceeds of taxes and loans which may be lawfully imposed and raised for provincial purposes.

(*d*) *Rule 16.*—
This provides for the custody of moneys derived from sources of provincial revenue, and for the prescription of procedure in connection with the disbursement, etc., of such moneys. It is important to note that the custody is left entirely to the Governor General in Council, and that it is for the same authority to prescribe procedure. Procedure has actually been prescribed in the " Treasury Orders " issued under this rule; which in fact permit to local Governments a considerable amount of discretion in minor matters.

(*e*) *Rule 21.*—
This empowers a local Government to draw on its balances which are held in the custody of the Governor General in Council, provided that it gives due notice of its intention of so drawing. The Governor General in Council is, however, given an emergency power of refusing to allow a draft in case he considers this to be essential in the financial interests of India as a whole.

(*f*) *Rule 27 and the underlying Schedule.*—

These restrict the power of local Governments to incur expenditure upon transferred subjects without the sanction of the Secretary of State in Council. In the case of reserved subjects, the Secretary of State in Council has not been statutorily divested of any part of his powers under section 21 of the Act, though he has, by executive order, delegated powers in this connection to the local Governments. The powers so delegated are considerably smaller than those statutorily conceded, by this rule, in relation to transferred subjects. An important feature of the schedule underlying rule 27 is that it requires the observance, in the case of transferred as well as of reserved subjects, of the rules regulating conditions of Government service which may be made under section 96B (2) of the Act. As will be seen below, this is a considerable restriction.

(*g*) *Rule 29 and the underlying Schedule.*—

These require the establishment and maintenance by each province of a Famine Insurance Fund, and place considerable restrictions upon the purposes for which it may be used.

(*h*) *Rules 36 to 45.*—

These make devolution and allocation conditional upon the establishment in each province of a Finance Department exercising specified functions of control in financial matters. The functions are modelled upon those exercised by the Treasury under the British constitution, though the powers given to the Finance Department fall short, in many respects, of those of the British Treasury.

(*i*) *Rule 49.*—

This relaxes, except in three exceptional cases, the powers of superintendence, direction and control conferred upon the Governor General in Council by section 33 of the Act. The relaxation applies, however, to transferred subjects only. Rule 13, as already stated, expressly saves that power in relation to reserved subjects.

(*j*) *Item 15 of Part I of Schedule I.*—

This classes as a central subject "the Indian Audit Department and excluded Audit Departments, as defined in rules framed under section 96D (1) of the Act". The departments concerned at present perform the dual function of compiling and auditing all Government accounts in India. As a result, the accounts of local Governments are compiled for them by an establishment over which they exercise no sort of control.

5. The foregoing paragraph shows the result of the more relevant rules in the devolution rules. It remains to consider the effect of rules framed under the Act upon the other restrictive sections of the Act to which reference has been made in paragraph 3 of this memorandum. This may be briefly summarised as follows :—

(*k*) *Section 2 (2) of the Act.*—

This has been relaxed, in relation to transferred subjects, by rules made under section 19A, which limit to a few exceptional

cases only the exercise by the Secretary of State in this connection of his powers of superintendence, direction and control.

(*l*) *Section 21 of the Act.*—

The powers of the Secretary of State in Council under this section have, as already explained, been considerably restricted by the issue of specific orders in devolution rule 27 and the underlying schedule.

(*m*) *Section 30 (1A) of the Act.*—

The local Government (Borrowing) Rules made under this section require the sanction of the Governor General in Council to the conditions of every loan raised in India ; and specify the purposes for which alone loans may be raised.

(*n*) *Section 33 of the Act.*—

As already explained, the power conferred upon the Governor General in Council by this section has been restricted, by devolution rule 49, in relation to transferred subjects.

(*o*) *Section 80A (3) (a) of the Act.*—

By rules made under this section, a number of classes of tax have been scheduled as exempted from the operation of the section. Taxes not so scheduled still require the sanction of the Governor General in Council.

(*p*) *Section 96B (2) of the Act.*—

The fundamental rules made under this section constitute a very real restriction upon the financial powers of local Governments. So far as the all-India services are concerned, they impose definite limits upon the amount of remuneration, etc., which may be paid to members of such services ; and similar limits apply to other Government servants also, until such time as the local Governments make special rules for other services. Even rules so made will require the sanction of the Secretary of State in Council if they grant greater concessions than the fundamental rules themselves.

(*q*) *Section 96D (1) of the Act.*—

The rules made under this section do not in fact impose any restrictions upon the financial autonomy of local Governments, except in relation to the compilation of their accounts. Rule 18 of those rules lays upon the Auditor General the duty of compilation of the accounts of provincial revenue and expenditure which will be laid before the British Parliament under section 26 of the Act.

6. It is now possible to summarise the existing position of the local Governments in the matter of financial autonomy. Certain sources of revenue are placed at the disposal of local Governments from which to finance provincial administration. If it is desired to supplement the revenue raised from these sources, recourse may be had either to taxation or to a loan. In the former case, no sanction beyond that of the provincial Legislative Council is required if the tax is one of those scheduled by the Scheduled Taxes Rules. If it is not so scheduled, the sanction of the Governor General in Council is required to the tax. If the local Government desires to raise a loan, it has two alterratives open to it. It may apply to the

Government of India for an advance, which may be given, under devolution rule 25, on such terms as the Governor General in Council may prescribe; or, if the loan is to be spent on one of the objects specified in the Borrowing Rules, it may ask the sanction of the Governor General in Council to the flotation of a loan in the open market. All provincial revenues and moneys, from whatever source received, must pass into the public account, of which the Governor General in Council is the custodian. They may ordinarily be withdrawn by the local Government, on conditions prescribed by the Governor General in Council, but the latter has the right, in case of emergency, to refuse to permit withdrawal. While they remain in the public account, they are entirely at the disposal of the central Government, which employs them for its own ways and means purposes. As regards expenditure from provincial balances, there are, in the case of transferred subjects, very few instances in which the sanction of the Secretary of State in Council is required to expenditure, though one of these instances covers the large requirement of observance of the fundamental rules. Apart from these instances, the powers of the local Government are unfettered. In relation to reserved subjects, the powers enjoyed by the local Government are considerably smaller. Revenue and expenditure are brought to account by an establishment which is in no way under the control of the local Government. As regards general control, both the Secretary of State and the Governor General in Council have practically abandoned their powers of superintendence, direction and control in respect of transferred subjects, though they have retained them in relation to reserved subjects. Finally, the grant of the degree of financial autonomy conferred by the Act and the statutory rules is conditional upon, firstly, the maintenance of a Famine Insurance Fund on prescribed lines, and, secondly, the institution of a provincial finance department exercising powers similar to those delegated by the British Parliament to its own Treasury.

7. The restrictions upon the financial autonomy of the local Governments may now be shortly stated as follows :—

(*a*) *Taxation.*—

If a proposed tax is not "scheduled", the sanction of the Governor General in Council to its imposition is required.

(*b*) *Borrowing.*—

The purposes for which loans may be raised are limited by statutory rule. No loan can be raised in India without the sanction of the Governor General in Council, or elsewhere without the sanction of the Secretary of State in Council.

(*c*) *Custody of provincial balances.*—

The local Government has no right to the custody of its own balances. These are kept for it by the Governor General in Council, who acts as the local Government's banker and employs the excess balances for his own purposes. In case of a financial emergency, he can refuse to allow a local Government to draw on its balances.

(*d*) *Powers of expenditure.*—

Certain classes of expenditure require the sanction of the Secretary of State in Council. These are comparatively few in the case of transferred subjects and more numerous in the case of reserved subjects.

(*e*) *Compilation of Accounts.*—

A local Government is not permitted to compile the accounts of its own revenue and expenditure, which will ultimately be submitted to the British Parliament under section 26 of the Act. This duty is laid upon the Auditor General and the subject is made a central subject.

(*f*) *Maintenance of Famine Insurance Fund.*—

Each local Government is required by statutory rule to maintain a Famine Insurance Fund and deposit it, at interest, in the general balances of the central Government.

(*g*) *Powers of provincial Finance Department.*—

As a condition of devolution, a local Government is required by statutory rule to employ a finance department vested with certain specified powers.

(*h*) *General.*—

The Secretary of State and the Governor General in Council retain very limited powers of superintendence, direction and control over the administration of transferred subjects. In relation to reserved subjects, their powers are, in theory, unlimited.

PART II.—THE POSSIBILITY AND DESIRABILITY OF AN INCREASE OF FINANCIAL AUTONOMY.

8. *The possibility of instituting complete financial autonomy without any amendment of the Government of India Act.*—Before discussing the desirability of removing any of these restrictions, it is important to note that they are all such as could be removed without any amendment of the Government of India Act. The majority of them has been imposed by statutory rule : in the few cases in which restrictions are imposed by the Act itself, there is always provision in the statute for their relaxation or removal by means of statutory rules.

9. *Two main classes of restrictions.*—A second fact which should be noted is that the restrictions upon financial autonomy fall into two main classes. The first class is that which definitely and finally prohibits specified actions unless certain conditions are fulfilled. Thus, a loan may not be raised in the open market except for certain specified purposes, and no authority at all has power to relax this rule while it remains in force. The second class of restriction does not prohibit an action, but requires the sanction of higher authority to it before it can be performed. This class is a definite restriction upon autonomy, seeing that it deliberately sets up an authority higher than the local Government. The existence of the first class, on the other hand, is not inconsistent with autonomy, except on the ground that it is enacted by an authority outside the local Government. The restrictions which it includes are precisely such as might reasonably be embodied in law by an autonomous legislature in order to fetter the discretion of its own executive.

10. *Discussion of desirability of removing or relaxing restrictions.*—It is proposed to discuss in turn each of the existing restrictions as set forth in paragraph 7 of this memorandum, and to examine the desirability of relaxing or removing them. In doing so, it will be convenient to take them in an order rather different from that which has been adopted in that paragraph.

11. (1) *The restriction on the maintenance of accounts.*—The first restriction which it is desired to discuss is that upon the maintenance of accounts. It is, of course, true that the fact that its accounts are compiled for it by an independent and highly competent agency constitutes, in practice, no serious restriction upon the autonomy of a local Government. In theory, however, such a situation is entirely inconsistent with any real degree of financial independence. It is almost an axiom that an authority which is responsible for the expenditure of considerable sums of money should also be responsible for accounting for that expenditure. Its autonomy must remain in a very rudimentary stage as long as it has no sort of control over the agency which compiles its accounts. It is therefore represented that, if any degree of advance in the financial autonomy of the provinces is to be made, the first step should be the transfer to the local Governments of the responsibility for maintaining their own accounts. This would, of course, mean that the local Governments must in future relieve the central Government of the cost of compilation. The change would require no amendment of the statutory rules beyond a change in item 15 of Part I of Schedule I to the Devolution Rules and an alteration of several of the Auditor General's rules under section 96D (1).

12. The position as regards the audit of accounts is entirely different. So long as the British Parliament and the Secretary of State retain any measure of financial control over the administration of local Governments, they will necessarily require the assistance of an audit staff entirely independent of the provincial authorities. Without such assistance, they will not be able to watch the observance of any restrictions upon provincial autonomy which may still remain in force. Moreover, the reports of an independent audit staff will be of immense value to the Statutory Commission when the time comes to consider the success or failure of the working of the reformed constitutions in India. Even, therefore, if the compilation of their accounts is handed over to the provinces, it is essential that audit should remain a central subject. This entails the separation of accounts from audit and the entrusting of these two functions to different agencies. Some changes in the Auditor General's rules would be necessary in order to effect this separation. It may be mentioned that an experiment in such separation has been proceeding during the whole of the current financial year, and that several further experiments have recently been instituted. It is as yet too early to make a definite pronouncement as to the success of the experiments, but there is every reason to believe that effective separation is quite feasible, though some addition to cost is involved.

13. It may be added that there are other arguments which may be adduced in support of separation. It will afford a means, though possibly not the only available means, of securing a more effective control over expenditure from voted grants; while it will operate to improve both the theoretical independence and the practical efficiency of audit itself.

14. (2) *The restriction on the handling of provincial balances.*—It would undoubtedly be a considerable advance in provincial autonomy if local Governments were permitted to assume the custody of their own balances, and were freed from all restrictions as regards their drafts upon them and their procedure in the matter of the withdrawal, transfer and disbursement of provincial moneys. If devolution rule 21 were cancelled and rule 16 amended to make the local Government custodian of its own "public account", important results would follow. In the first place, the local Governments would become responsible for their own ways and

means. At present, it is a function of the central Government to make money available to provincial Governments at the times and places at which they desire to draw it. If they took over their own balances, the local Governments would have to perform this function for themselves. Indeed, it might possibly be convenient to allow them to perform it for the central Government also, in places in which there was no branch of the Imperial Bank. This would mean the maintenance by certain of the local Governments of larger balances than they find necessary at present. On the other hand, the change would give to the local Governments far larger resources than they enjoy under the existing system. Very considerable sums of money are deposited for short periods with Government. Among these may be mentioned such deposits as civil and criminal court deposits, revenue deposits of various kinds and the balances of municipalities and other local bodies. The sums so deposited are eventually withdrawn, but they represent a large and practically constant balance in the Government account. The majority of these deposits accrues in connection with the administration of provincial subjects, but the local Governments have not hitherto enjoyed the use of them. They do not represent "revenue" in any sense of the word, and are naturally not classed as sources of provincial revenue. They are funds temporarily deposited in Government balances, and the central Government, as the custodian of those balances and the universal banker, has had the use of them for its own ways and means purposes. If local Governments assume the custody of their own balances, they will acquire with it a right to the use of that portion of the balance of deposits which has accrued in connection with the administration of provincial subjects. The sums involved will in every case be far more than sufficient to place the provinces in funds to meet their day to day requirements.

15. It may be mentioned that a tentative scheme, formulating general principles of procedure in case the separation of balances were effected, has already been prepared and is under consideration in the Finance Department. It will probably be discussed with representatives of local Governments at the conference of Finance Members which will take place early in the coming Delhi season. It seems probable that the change could be effected without grave administrative inconvenience or serious expense to either the central or the local Governments. But a change of this kind must inevitably be accompanied by the separation of accounts from audit, which in itself involves some extra expenditure.

16. (3) *Restrictions on taxation.*—The next points for discussion are the restrictions on the facilities available to local Governments for increasing the resources at their disposal. The first method of increasing resources is to increase revenue by enhancing taxation. The existing restriction requires the sanction of the Governor General in Council to any tax not included in the schedule attached to the Scheduled Taxes Rules. It would be very difficult to remove this restriction. It is, of course, essential that a local Government should be in a position to increase its revenue in order to avoid a deficit. It must, however, be open to the central Government to forbid the imposition of a provincial tax which would encroach upon the field of central taxation. Such an imposition might jeopardise the stability of central finance; while it would be unfair to other local Governments as long as these pay contributions to the central exchequer. It was one of the functions of the proposed Taxation Committee to attempt a clearer demarcation of the respective fields of central and provincial taxation. If this were accomplished, the schedule to the Scheduled Taxes

Rules could be enlarged, and the occasions for reference to the Government of India before the imposition of a tax could be reduced to a minimum. But, in any case, the central Government must retain the right to examine the effect upon its own revenues of a novel class of provincial tax before the latter is imposed. It may be stated that the separation of balances, if this were effected, would in no way increase the necessity for conceding powers of taxation. Even at present, it is the duty of a local Government to raise sufficient revenue to meet its expenditure. This obligation would remain unchanged if balances were separated.

17. (4) *Restrictions on borrowing.*—The second method of increasing resources is to raise money temporarily by means of a loan. The existing restrictions on borrowing are twofold. The objects on which borrowed money may be spent are strictly limited by statutory rule ; and the approval of the Governor General in Council is required to the terms of any loan floated in the open market. So far as loans properly so called are concerned, it does not appear desirable to relax either of these restrictions. The rules dictating the purposes for which money may be borrowed do not go beyond the requirements of ordinary sound finance, and are such as a provincial legislature, if properly advised, might fairly be expected to prescribe for itself. As regards the terms of loans, it is most desirable to concentrate in the hands of a single authority the control of Government operations on the money-market in India. The amount which can be raised from the Indian investor is limited, and, if various Governments in India compete unduly against one another to secure it, the result will be to raise the rates at which money can be borrowed. It is preferable to leave the control of such operations in the hands of a single authority, which will regulate the flotation of loans in the best interests of all the Governments. It may be added that a scheme for the formation of a Provincial Loan Fund is at present under consideration, which will, if it materialises, provide a means by which local Governments can obtain loans without direct recourse to the open market. So far, therefore, as loans proper are concerned, no removal of the existing restrictions appears desirable. If, however, the local Governments are to manage their own ways and means, it appears essential that they should be able, in case of necessity, to obtain ways and means advances in order to tide them over temporary difficulties. This could doubtless be arranged by empowering them to take short-term advances from the Imperial Bank or, under prescribed conditions, from either the central Government or the Provincial Loan Fund.

18. (5) *Restrictions on powers of incurring expenditure.*—The existing restrictions upon the power of local Governments to incur expenditure on transferred subjects are comparatively few. They are, indeed, considerably less than the restrictions imposed upon the expenditure powers of the Governor General in Council in relation to central subjects. The restrictions in the latter case are very similar to those which limit the powers of local Governments to spend money upon reserved subjects ; since in both cases the control of the Secretary of State under sections 2 (2) and 21 of the Act remains unimpaired. It may be noted that several of the restrictions retained in relation to transferred subjects are designed to safeguard the control of the Secretary of State over the all-India services. If the all-India services are reduced as suggested by the Lee Commission, the effect of these restrictions will be considerably lessened. A further restriction insists upon the observance of the fundamental rules, governing the conditions of Government service in India, which have been framed

under section 96B of the Government of India Act. The effect of this restriction also could be minimised, if local Governments passed legislation of their own prescribing conditions of service for all Government servants other than members of all-India services. It was contemplated, when the fundamental rules were drafted, that this course would ultimately be adopted. The remaining restriction requires the observance of rules framed by the Secretary of State to regulate expenditure upon imported stores. It is probable that here also restrictions could be reduced to a minimum if provincial autonomy were increased.

19. (6) *Restriction requiring the investiture with certain specified powers of provincial finance departments.*—As already explained, the grant to local Governments of such measure of financial autonomy as they now possess, has been made, by statutory rule, conditional upon the maintenance of finance departments endowed with certain specified powers. Any diminution of these powers is strongly to be deprecated. They are modelled upon the powers delegated to its own Treasury by the British Parliament. The Treasury derives its powers by delegation from the House of Commons; which is, in the United Kingdom, the authority actually responsible for the control of expenditure. In India, such responsibility is shared by the legislatures with the Secretary of State and the British Parliament; and it is for this reason that the delegation has been made by statutory rule. While, therefore, the delegation of power is not actually made by the Indian legislatures, the delegated powers are exercised by the finance departments very largely on behalf of the legislatures; and it is open to the legislative councils, working through their standing finance committees and committees on public accounts, to exercise a considerable influence upon the finance departments in their use of the delegated powers. It is submitted that similar powers have been conferred upon its Treasury officials by the oldest of parliaments; which has felt its way, through various stages, to what it considers to be the best available method of fulfilling its own responsibility for the control of expenditure. An Indian legislature would be ill-advised if, at this stage of political development, it attempted to weaken the influence of the local finance department.

20. (7) *Restriction requiring the maintenance of a Famine Insurance Fund.*—The liability to famine of most of the provinces of India is a fact proved by bitter experience; and there can be no doubt of the desirability that the exposed provinces should maintain a reserve of resources with which to fight famine both when, and before, it arises. Provision for such a reserve would naturally be made by provincial legislation; but in view of the liabilities which a famine, falling upon an unprepared province, would inevitably impose upon the central Government and through it upon other local Governments, it was considered unsafe to leave the initiative in the matter to the provinces, and the necessary provision was made by statutory rule. It is possible that certain alterations of detail might with advantage be made in the paragraphs of Schedule IV to the Devolution Rules. It can safely be said, however, that the general lines of the scheme embodied in that schedule are such as might reasonably and wisely be laid down by a local legislature itself; and no general relaxation of the restriction is desirable. It is possible that, if the separation of provincial from central balances were effected, some more suitable method of investing Famine Insurance Funds might be devised; but consideration of this question would have to await a settlement of the details of separation.

21. (8) *Restriction due to the general powers of superintendence, direction and control retained by the Secretary of State and the Governor General in Council.*—In so far as the administration of transferred subjects is concerned, the interference of the Secretary of State and the Government of India has been reduced to a minimum. A perusal of the rules under section 19A of the Act and of devolution rule 49 will show that it is now limited to cases in which it is desired to achieve one of the following objects:—

(*a*) To safeguard the superior authority in the fulfilment of its own statutory functions.

(*b*) To decide such disputes between provinces as the contending parties cannot decide for themselves.

(*c*) To safeguard the interests of the British Empire.

(*d*) To determine the position of the Government of India in respect of questions arising between India and other parts of the Empire.

It is submitted that the restriction upon autonomy entailed by the power of intervention for such purposes is in no way susceptible of reduction. As regards the administration of reserved subjects, the powers of superintendence, direction and control possessed by both the Secretary of State and the Governor General in Council are in theory unlimited. In practice, it would appear that they are very rarely exercised. It would certainly be a useful step in the theoretical, if not in the practical, advancement of provincial autonomy if the two superior authorities could find it possible to formulate a set of rules showing the circumstances in, and the extent to, which they propose to exercise their statutory power.

22. *Summary of suggestions made in this memorandum.*—It remains to summarise the suggestions for the increase, within the four corners of the Government of India Act, of the financial autonomy of local Governments, which have been made in this note. These suggestions are tabulated below:—

(*a*) Local Governments should be required to compile their own accounts; but the audit of the accounts should remain a central subject under the control of the Auditor General.

(*b*) Local Governments should be made responsible for the custody of their own balances.

(*c*) The present rules relating to the imposition of provincial taxation should remain in force; but the position should, if possible, be clarified by a clearer demarcation of the fields of central and provincial taxation, and by a corresponding revision of the schedules attached to the Scheduled Taxes Rules.

(*d*) As regards borrowing in the open market, the existing rules should be maintained; but, if balances are separated, local Governments should be given facilities for obtaining ways and means advances.

(*e*) The restrictions upon the powers of local Governments to spend money on transferred subjects should be reduced to the minimum sufficient to enable the Secretary of State in Council to fulfil his responsibility for the all-India services.

(*f*) The powers and duties of provincial finance departments should remain unchanged.

(*g*) Subject to any minor alterations of detail which may be found necessary, the existing rules as regards Famine Insurance Funds should remain in force.

(*h*) The powers of superintendence, direction and control exercised over transferred subjects by the Secretary of State and the Governor General in Council are not susceptible of reduction. It would be an advantage to set forth categorically the circumstances in, and the extent to, which these authorities will exercise their theoretically unlimited powers of the same nature in relation to reserved subjects.

The 9th October 1924.

J. E. C. JUKES.

Memorandum by Mr. G. H. Spence, I.C.S., Deputy Secretary, Legislative Department, Government of India.

I

Control over Provincial Legislation under the reformed constitution.

A.—Official Legislation.

In considering the control exercised by higher authority over provincial legislation, it is necessary to distinguish the control arising from the statutory requirement of previous sanction by the Governor General to certain categories of provincial legislation from the executive control exercised by the Government of India under the powers conferred by section 45 of the Government of India Act. The inauguration of the reformed constitution has entirely reversed the relative importance of these two kinds of control. Prior to the reforms, the statutory requirements of sanction by the Governor General were contained in sub-sections (2) and (3) of section 79 of the Government of India Act, 1915. But in pre-reform days the question whether a particular Bill did or did not require statutory sanction was for the most part a question of academic interest, since the effect of the executive instructions then in force was to require the prior submission to the Government of India of all provincial Bills (other than Bills of a purely formal nature) which a local Government proposed to introduce. All Bills so submitted were scrutinised by the Government of India in the utmost detail and executive orders for their alteration, or, in extreme cases, for their abandonment, were freely issued. Nor did the executive control end with the Government of India. All Bills submitted to the Government of India were reported to the Secretary of State, and in order that the latter might be in a position to intervene effectively if so advised, local Governments were prohibited from introducing a Bill until two months had elapsed from the date of the despatch of the Bill to the Secretary of State, unless the orders of the latter and of the Government of India had in the meantime been received.

2. The inauguration of the reformed constitution entirely changed the position. Sub-section (3) of section 45A of the Government of India Act restricts the exercise by the Government of India of their executive powers of control in the transferred sphere to the very limited classes of case for which provision is made in rule 49 of the Devolution Rules, with the result that the executive control previously exercised by the Government of India over provincial legislation has of necessity been abandoned—virtually *in toto*—in the case of Bills relating to transferred subjects. In the case of Bills relating to reserved subjects the Government of India proposed in the first instance to maintain substantially the position which previously prevailed and temporary instructions were issued in this sense.

The Secretary of State, however, announced that in the changed circumstances he did not himself desire to exercise any prior control* over the legislative projects of Local Governments and these temporary instructions soon became obsolete. They have now been formally replaced by instructions which for the most part merely describe the procedure to be followed in obtaining the statutory sanction of the Governor General to Bills which require that sanction. The previous all-embracing requirement of submission for prior executive approval has dwindled to the solitary stipulation that a Bill relating to a reserved subject which does not require previous sanction shall, if in the opinion of the Local Government it is of substantial importance, be submitted to the Government of India in sufficient time in advance of its introduction to admit of the communication to the local Government before the introduction of the Bill of any observations which the Government of India may desire to offer. In practice, of course, the position is not as clear-cut as this summary might suggest, because a Bill of substantial importance relating to a reserved subject will in most cases contain provisions in respect of which statutory sanction is necessary. In such cases the Bill will be submitted for the statutory sanction of the Governor General and rule 3 of the instructions will not come into operation. In dealing with a Bill of this nature, however, the Government of India, while recommending grant or refusal of sanction by the Governor General on the merits of those provisions only in respect of which the requirement of sanction arises, will deal with the rest of the Bill in the same manner as a Bill to which rule 3 in terms applies, *i.e.*, they will examine the Bill as a whole, and, if so advised, will communicate suggestions—or in extreme cases directions—for the alteration of provisions in respect of which sanction is not required. It should be emphasised, however, that under the reformed regime the occasions on which the Government of India have used their powers of executive control to convey orders, as opposed to suggestions, for the abandonment or substantial modification of Bills submitted by local Governments have been exceedingly rare. Such action has in fact only been taken when acquiescence in the local Government's proposals would, in the opinion of the Government of India, have been inconsistent with their own responsibility for the due administration of reserved subjects.

3. Briefly, therefore, it may be said that executive control over provincial legislation is non-existent in the transferred sphere and is very sparingly exercised in the reserved sphere. Concurrently with this development, however, the control arising from the law of previous sanction has assumed greater prominence, not by reason of any increased rigidity in the enforcement of the law of sanction, but because the sphere of operation of the existing law contained in sub-section (3) of section 80A of the Government of India Act has proved in practice to be far wider than that of the pre-reform law on the subject, and indeed to be wider than was either anticipated or intended. Experience has in fact shown

---

*The Secretary of State has however directed his concurrence to be obtained before sanction is refused by the Governor General to the whole or to the main provisions of a Bill which a local Government proposes to introduce or before executive orders are issued by the Government of India forbidding the introduction of such Bill. Thus the Secretary of State, while refraining from exercising control over the legislative projects of local Governments, has insisted on being placed in a position to control any substantial interference by the Governor General or the Government of India with such projects.

that all Bills of any magnitude, whatever their subject-matter, will inevitably contain provisions in respect of which previous sanction is required under one or other of the clauses contained in sub-section (3) of section 80A, clauses (*e*), (*f*) and (*h*) being those which have the widest operation. Accordingly the great majority of important provincial Bills require statutory previous sanction which must be obtained before the Bill is introduced and it remains to explain the principles followed by the Government of India in dealing with Bills submitted for such sanction.

4. From this point of view Bills which require sanction may suitably be considered under two heads, accordingly as they require sanction as a whole or only in respect of individual provisions. Where a Bill requires sanction as a whole the first question which arises will, in many cases,—*e.g.*, in the case of a Bill which as a whole regulates a central subject or a provincial subject which is subject to legislation by the Indian Legislature—be whether legislation of the nature proposed, if undertaken at all, should not be undertaken in the Indian Legislature. To give a concrete example, a local Govrenment recently submitted for previous sanction a Bill to make provision for the settlement of labour disputes. This is an element in provincial subject 26, which is subject to legislation by the Indian Legislature and the Government of India were not only of opinion that on constitutional grounds legislation of this character should be undertaken in the Indian Legislature, but had actually themselves reached an advanced stage in the preparation of legislation on the subject. In these circumstances the Government of India, having taken the Governor General's orders, informed the local Government concerned of the position and stated that in the circumstances the Governor General was provisionally not disposed to grant previous sanction to provincial legislation on the subject. The local Government, it may be remarked, accepted the view taken by the Government of India and withdrew their application for previous sanction to the Bill proposed by them. There are, however, cases in which provincial legislation regulating a central subject is recognised in present circumstances to be unobjectionable—legislation of the character of the Bengal Children Act which belongs wholly to the central subject of civil and criminal law is a case in point—and in such cases the Government of India examine the Bill on its merits and unless they see reason on the merits to recommend refusal of sanction to the Bill as a whole—a contingency which seldom if ever materialises—confine themselves to taking up any important points of detail in respect of which the Bill appears to them to require alteration. In the great majority of cases no such points emerge. Where the Bill does contain provisions to which the Government of India think that serious objection attaches, their present* practice is to address the local Government, before taking the Governor General's orders, explaining the nature of their objections and indicating the lines on which they think the provisions in question should be recast. If the local Government accepts the view taken by the Government of India the latter proceed to take His Excellency's orders. If the local Government adheres to its original view, the Government of India are under the necessity of deciding whether they will be justified in recommending the Governor General to grant

* In the earlier reformed period the Government of India were in the habit of recommending the Governor General to sanction a Bill conditionally on the making of the alterations which appeared to them to be required, but this practice has now been abandoned.

sanction to a Bill containing provisions to which in their opinion serious objection attaches. There has, it may be mentioned, been no case hitherto in which the Government of India have found it necessary to recommend the Governor General to refuse sanction to a Bill by reason of a difference of opinion on a point of detail between the local Government and themselves.

5. Where a Bill requires sanction in respect of individual provisions only (*e.g.*, a Bill regulating generally the provincial subject of local self-government but containing individual provisions which regulate, say, civil law), the Government of India, in examining the Bill from the point of view of sanction, will treat the clauses in respect of which sanction is required on their own merits and without reference to the merits of the Bill as a whole. In deciding whether to recommend grant or refusal of sanction they will follow precisely the same principles as in the case of Bills which require sanction as a whole. If, however, the Bill as a whole relates to a reserved subject, the Government of India will, as already explained, exercise their own powers of control, should need arise, independently of their recommendation to the Governor General in the matter of sanction. If the Bill relates to a transferred subject the Government of India are not in a position to exercise control, but may in certain circumstances put forward suggestions for consideration. Such suggestions are usually made only for most obvious reasons—*e.g.*, for the rectification of a drafting error which defeats the plain object of the Bill.

6. Hitherto the initial submission of Bills only has been considered. The instructions, it will be seen, deal also with the submission of amendments, whether proposed by a select committee or otherwise. In so far as statutory sanction is concerned the instructions do not of course create an obligation to submit amendments for such sanction; they merely prescribe the procedure to be followed in obtaining sanction to amendments where such sanction is necessitated by the provisions of the Government of India Act. In dealing with amendments submitted for statutory previous sanction the Government of India throughout follow the same principles as in the case of Bills submitted for initial sanction. The practical difference between the two cases is that the necessity of obtaining previous sanction to amendments for obvious reasons creates greater inconvenience than the necessity of obtaining initial sanction to a Bill; and in this connection it can only be said that the inconvenience is the inevitable outcome of the existing law and that the Government of India have consistently spared no pains to obtain and communicate His Excellency's orders at the earliest possible moment. The only requirement of submission of amendments for executive orders is on all fours with that already noticed in the case of initial submission of Bills, *viz.*, the requirement that an amendment to a Bill relating to a reserved subject shall, if in the opinion of the local Government the amendment is of substantial importance, be reported in advance to the Government of India in order to admit of the observations of the latter being communicated before the amendment is taken into consideration. In practice this particular instruction has proved virtually a dead letter, and the Government of India have never, it may be observed, taken a local Government to task for the manner in which it has exercised its discretion under the instructions of deciding whether a particular amendment, not requiring statutory sanction, is of sufficient importance to require report.

B.—Non-Official Bills.

The law of previous sanction applies, of course, without differentiation to official and non-official Bills, but the principles observed by the Government of India in recommending the grant or refusal of sanction to Bills of these two classes are in some respects different. In the case of official Bills it has been seen that the Government of India will concern themselves with the merits of the Bill to which sanction is sought, or as the case may be, with the merits of those provisions of the Bill which give rise to the requirement of sanction. In the case of a non-official Bill, the Government of India will, generally-speaking, do no more than satisfy themselves that the introduction of the Bill will not involve an encroachment by the local Legislature in a sphere to which its activities do not legitimately extend, and that the discussion of the Bill will not be prejudicial to the public interest. If they are satisfied on these points, they will readily recommend sanction to a Bill of which they may, on the merits, entirely disapprove. This is another instance of a change in policy since the initial Reform period. In the earlier period the Government of India not infrequently recommended refusal of sanction, and the Governor General not infrequently refused sanction, to a private Bill on the sole ground that the Bill in question was a bad one on the merits.

2. In the case of non-official Bills, the only scope for the exercise of an executive power of control is in regard to the local Government's attitude towards the Bill, and the only requirement imposed by the instructions in this respect is that the local Government shall in the case of Bills relating to a reserved subject which in the opinion of the local Government are of substantial importance report in advance the attitude which it proposes to adopt towards the Bill, and shall take such steps as are in its power to delay the introduction and further progress of the Bill until the receipt of the reply of the Government of India. This requirement has not, it may be observed, led to any important differences of opinion between the Government of India and local Governments.

C.—Proposed Amendment of the Law of Sanction.*

In Part A of this memorandum attention has been drawn to the very wide scope of the existing law of previous sanction. The Government of India recognise† to the full the inconvenience which the operation of-

*In connection with Part C, reference should be made to the following correspondence, copies of which have been supplied separately to members of the Committee :—

(1) Government of India Despatch to the Secretary of State, no. 2, dated 29th December, 1923 ;

(2) The Secretary of State's reply no. 15-Public, dated 20th March, 1924 ;

(3) The Government of India, Legislative Department, circular letter to local Governments, dated 12th May, 1924, and the replies of local Governments to that letter.

†It should be emphasized that recognition of this aspect of the case does not imply any admission that the operation of the existing law has involved, as is sometimes alleged, anything amounting to strangulation of the initiative or reasonable freedom of action of local Governments in the legislative sphere. It may further be claimed that, while local Governments have for the most part shown a tendency to allow an altogether inadequate time for the examination of their Bills by the Government of India, the latter have consistently striven to avoid delaying the progress of Provincial legislation by failure to communicate the Governor General's orders regarding sanction, or their own observations, in time to admit of Bills being proceeded with on the desired date.

this law causes to local Governments, and they appreciate the fact that in many cases the necessity for obtaining previous sanction is no more than a formality which serves no useful purpose. They have therefore, with the approval of the Secretary of State, initiated proposals for the amendment of the existing law by the incorporation in sub-section (3) of section 80A of the Act of a proviso in the following sense :—

> " Provided that nothing hereinbefore contained shall be deemed to prohibit the local Legislature of any Province from making or taking into consideration, without the previous sanction of the Governor General, any law satisfying conditions prescribed in this behalf by rules under this Act."

Local Governments have been consulted and have unanimously expressed approval of this proposal. Should Parliament enact legislation in this sense, the aim which the Government of India will keep in view in framing rules under the power thereby conferred will be the removal of the necessity for sanction in respect of formal and stereotyped provisions with regard to which no question of the desirability of refusing sanction can seriously arise.

II

Control by the Secretary of State over legislation in the Indian Legislature under the reformed constitution.

In pre-reform days the Secretary of State required prior report to himself of all Bills—other than Bills of a purely formal nature—which the Government of India proposed to introduce and he freely issued instructions for the abandonment or modification of such Bills. Concurrently with the inauguration of the reformed constitution the Secretary of State issued orders restricting the requirement of prior report to Bills—other than routine Bills or Bills of minor importance—which fall within certain specified categories.* The effect of these instructions in

---

*Any measures—

(*a*) affecting the public debt or custom duties ;
(*b*) affecting the discipline or maintenance of any part of His Majesty's Military, Naval or Air Force ;
(*c*) affecting the relations of the Government with Foreign Princes and States ;
(*d*) regulating any provincial subject or any part of a provincial subject which has not been declared by rules under the Government of India Act to be subject to legislation by the Indian Legislature ;
(*e*) repealing and amending any Act of a local legislature passed after 1920 ;
(*f*) providing for the punishment of offences by courts not constituted under the Code of Criminal Procedure or conferring on the executive powers of interference with the personal liberty of the subject ;
(*g*) regulating merchant shipping other than shipping on inland waterways ;
(*h*) regulating the personal status and rights of European British subjects ;
(*i*) regulating naturalisation ;
(*j*) affecting the currency ;
(*k*) altering the law merchant ;
(*l*) regulating the prerogative of the Crown.

practice has been that of 115 Bills introduced by the Government of India in the reformed Indian Legislature 27 only have been reported to the Secretary of State who in only 3 or 4 of these cases did more than convey approval either without comment or with some purely minor suggestions. The Bill with which the Secretary of State most seriously concerned himself was the Bill enacted as the Criminal Law Amendment Act, 1923—commonly called the Racial Distinctions Bill,—and in this case much of his concern was with those provisions of the Bill which required the statutory previous approval of the Secretary of State in Council under sub-section (3) of section 65 of the Government of India Act.

2. The Secretary of State requires no reference to himself in the case of non-official Bills in the Indian Legislature but it is of course open to him, if so advised, to issue instructions to the Government of India regarding their attitude towards any such Bill. The occasions on which he has found action of this nature necessary have however been very rare.

SUPPLEMENTARY MEMORANDUM BY MR. G. H. SPENCE, DEPUTY SECRETARY, LEGISLATIVE DEPARTMENT, GOVERNMENT OF INDIA.

In the course of my evidence before the Reforms Enquiry Committee I was instructed to submit a memorandum stating the facts with regard to the treatment by the Government of India of various Provincial Bills referred to by previous witnesses before the Committee. A tabular statement giving the necessary information is appended. Cases already sufficiently dealt with in oral evidence have not been included.

2. I have also been asked to refer to the statement made by the Honourable Mr. Raza Ali in giving evidence before the Committee—page 19 of Vol. II of oral evidence of record of evidence—that nominated non-official members of the Council of State "always vote in favour of Government." Statistics show that, in the divisions which have taken place in the Council of State—ignoring divisions in which Government was neutral—a total of 172 votes have been given by nominated non-official members, of which 91 have been given in favour of, and 81 against, Government.

Tabular Statement of Bills.

Serial No.	Name of Bill.	Reference to previous evidence.	Summary of relevant facts.
1	Punjab Local Option Bill.	Lala Harkishen Lal, page 130 of oral evidence and written memorandum of Sir John Maynard.	The Bill as originally submitted in June 1922 applied indiscriminately to country and foreign liquor. In its application to foreign liquor it required statutory sanction under clause (*b*) of section 80A (3). The local Government were informed that the Governor General was not prepared to grant the necessary sanction, but that they were free to proceed with the Bill if its scope was restricted to country liquor. In October 1922 the local Government asked for reconsideration of the Governor General's decision and were supplied by the Government of India with a detailed statement of the reasons which rendered them reluctant to recommend such reconsideration. In June 1923 the Punjab Government submitted a revised Bill in which it was proposed, by way of compromise, to restrict the application of the Bill to foreign liquor to cases in which the essential objects of the Bill were in danger of being defeated by the resort of the classes concerned to foreign liquor shops. This compromise substantially met the views of the Government of India, and the Governor General's sanction to the revised Bill was conveyed within 17 days of the receipt of the local Government's letter.

Serial No.	Name of Bill.	Reference to previous evidence.	Summary of relevant facts.
2	Punjab Village Panchayats Act.	Sir John Maynard's written memorandum.	The assent stage only is in point here. During the passage of the Bill, a new clause was inserted on an amendment moved by a non-official member—section 21 of the Act as passed—forbidding the grant of a license for the sale of any excisable article in any village in which the Panchayat objected to the grant of such license. In its application to foreign liquor, this clause affected the Customs duties, and previous sanction should have been obtained to its insertion. The Government of India did not recommend that the Governor General's assent to the Act should be withheld, but in communicating that assent, they drew attention to the fact that the clause required previous sanction, and that objection should have been taken by the Government spokesman to the moving of the amendment in question without that sanction. They added with His Excellency's approval that the Governor General had assented to the Act on the understanding that licenses for the sale of foreign liquor were not in fact issued in the areas to which the Act would apply, and that the existence of this provision on the statute book must not be taken to prejudice in any way the discretion of the Governor General and of the Government of India in dealing with subsequent legislative proposals of a similar character.
3	Allahabad University Bill.	Mr. Chintamani, page 267, and Mr. Kunzru, page 364.	The Bill was introduced without reference to the Government of India on 25th July 1921, a copy being forwarded to the Government of India on 22nd August 1921. The Bill as introduced dissolved, in terms the existing university and constituted a new university in its place. In these circumstances the Governor General, to whom the question was referred under rule 19 of the Legislative Council rules, decided that the effect of the Bill as drawn was to constitute a university after the commencement of the Devolution Rules, and that the Bill therefore required previous sanction under clause (*f*) of section 80A (3) read with proviso (*b*) (1) to entry 5 in part II of Schedule I to the Devolution Rules.

Serial No.	Name of Bill.	Reference to previous evidence.	Summary of relevant facts.
			The local Government were accordingly instructed not to proceed with the Bill in its then form without obtaining the necessary sanction. The Government of India, however, pointed out that it was open to the local Government to eliminate the requirement of sanction by recasting the form of the Bill in such a manner as merely amend the constitution of an existing university and not constitute a new one. The local Government adopted this suggestion and made the necessary modifications in the Bill, to which therefore sanction was neither granted or required. In dealing with the question of sanction, the Government of India had taken occasion to make four suggestions. One, which was of a drafting nature, was accepted by the local Government. The remaining three were of substance and the local Government expressed themselves as strongly opposed to the adoption thereof. The Department concerned attached great importance to two of these suggestions and returned to the charge in a telegram which, while disclaiming any desire to force the local Government to place before the Council amendments to which they were opposed, expressly reserved full discretion to the Government of India in the matter of their recommendation to the Governor General in regard to assent in the event of the Bill being passed without adoption of the two suggestions in question. The local Government adhered to their view, and the Bill as passed, reproduced the two conditions to which the Government of India had objected. The Department of the Government of India concerned retained its original view on the merits of the Bill, but did not suggest refusal of assent, which was in fact granted and communicated after an interval—not of two months as stated by Mr. Chintamani, but of one month and five days, some 10 days of which was occupied in an exhaustive scrutiny of the text of the Bill as passed, which was necessitated by the inclusion of a number of printer's errors therein.

Serial No.	Name of Bill.	Reference to previous evidence.	Summary of relevant facts.
			One further point remains for notice. The Bill not having been sanctioned, rule 2 (*b*) of the Reservation of Bills Rules came into operation and it is difficult to avoid the conclusion that the Bill should have been reserved for the consideration of the Governor General. It was not so reserved though the Government of India had drawn attention to the application of this rule. The Government of India offered no comment on the failure to reserve but the somewhat minatory tone adopted in conveying their observations upon the merits of the Bill was undoubtedly influenced by the fact that the Bill did regulate the constitution and functions of the University and that a Bill of this nature which has not received sanction is required by the Reservation of Bills Rules to be reserved for the consideration of the Governor General.
4	United Provinces Local Self-Government Bill. (District Boards Bill).	Mr. Chintamani, page 255.	The Bill, which contained 288 clauses, was forwarded for sanction with a letter dated the 2nd July 1921 in which the local Government stated that they proposed to introduce the Bill on the 25th July. The local Government's examination of the question of the requirement of sanction was found to be entirely inadequate. They applied for sanction in respect of 29 taxation clauses, only one of which required sanction, and a number of penal clauses none of which required sanction. They made no reference to some 30 clauses in respect of which sanction was in fact required. It was at once realised that it would be impossible to complete the examination of the Bill in time to admit of its introduction in the short session opening on the 25th July and the local Government was informed accordingly in a letter dated the 10th July. Orders were finally conveyed in a letter dated the 5th September 1921 in time to admit of the introduction of the Bill at the next following session. In respect of two clauses the grant of sanction was conditional on the insertion of provision requiring the previous sanction of the

Serial No.	Name of Bill.	Reference to previous evidence.	Summary of relevant facts.
			Governor General in Council to be obtained before action was taken affecting the administration of railways. For the rest the Government of India drew the local Government's attention to the doubt whether the provisions in the Bill purporting to confer jurisdiction on the High Court could validly be enacted by the provincial legislature but left the decision regarding the retention of these provisions to the local Government. They also pointed out 4 or 5 defects in the construction of the Bill all of which the local Government duly rectified.
	United Provinces Aerial Ropeways Bill.	Mr. Chintamani, page 255.	In this case the local Government failed to observe that any question of the necessity of sanction arose. A copy of the Bill was, however, forwarded to the Government of India for information before introduction with a letter dated the 12th July. Examination showed that the Bill contained provisions in respect of which sanction was plainly required and on the 18th July the Government of India telegraphed directing the introduction of the Bill to be suspended pending a further communication. The local Government replied in a telegram dated the 20th July that they desired to introduce the Bill on the 29th July and requesting orders by the 27th July on which date sanction was in fact conveyed by telegram. In this case sanction was refused in respect only of the imposition of transportation as a punishment for an offence under the Bill, the reason for refusal being that proposals for the general abolition of this form of punishment were then under consideration. One minor suggestion was made and accepted.
	United Provinces Intermediate Education Bill.	Mr. Chintamani, page 364 and Mr. Kunzru, page 398.	A copy of the Bill was supplied to the Government of India after its introduction. The Government of India observed that it was at least possible that clause 4 of the Bill would operate to affect the existing powers of the Universities of Benares, Aligarh and Lucknow in regard to the conduct of examinations. They pointed out that if this were in fact the effect of

Serial No.	Name of Bill.	Reference to previous evidence.	Summary of relevant facts.
			the Bill, the Bill must be held to have required previous sanction. The local Government telegraphed in reply that there was no intention that the Bill should affect the powers of the Universities in question, and after some further correspondence which was concluded before the opening of the session at which the Bill was to be proceeded with it was agreed that a clause should be inserted expressly providing that nothing in the Bill should affect the constitution or functions of the Universities in question. The Government of India also made three suggestions of a drafting nature designed to remove obscurities in the Bill and effect was subsequently given to all these suggestions.
	Mr. Gupte's Bombay Prohibition of Drink Bill.	Mr. Kamat, page 481 and Mr. Delvi, page 136, Vol. II (oral evidence).	Mr. Delvi is only partially correct in saying that the Bill related to the provincial transferred subject of Excise. The Bill *inter alia* forbade the importation of liquor into the Bombay Presidency, and control of the importation (as opposed to transportation) of liquor not being included in provincial subject 16 constitutes a central subject under entry 47 in the Central Schedule. The Bill therefore required sanction to the extent of its application to importation not only as affecting the Customs duties but also as regulating a central subject. Prohibition of import into the Bombay Presidency while other provinces remained "wet" was plainly not a practical proposition and this was the primary reason for the refusal of the necessary statutory sanction to the Bill.
	Bombay Prevention of Prostitution Bill.	Mr. Jamnadas Dwarkadas, page 505.	The only point here is the decision of the Select Committee not to recommend an amendment on the ground that its adoption would require the making of an application for previous sanction which would delay the passing of the Bill. The Select Committee's Report is dated the 1st August 1923 and the Bill was taken up in Council on the 6th of August. The amendment in question raised no point requiring any detailed consideration and there is at least a strong probability that

Serial No.	Name of Bill.	Reference to previous evidence.	Summary of relevant facts.
			a telegraphic application for sanction on the 1st August would have enabled sanction to be obtained and communicated before the 6th August.
9	Deccan Agriculturists' Relief Bill.	Mr. Chitale, page 59, Vol. II (oral evidence).	Mr. Chitale has not stated the position correctly. Actually the Bombay Government submitted in the first instance extremely comprehensive proposals embracing an amendment in its application to the Bombay Presidency of the Usurious Loans Act, 1918, the consequential repeal of the Deccan Agriculturists' Relief Act and an amendment of the Indian Registration Act, 1908. The Government of India after an examination which was necessarily prolonged ultimately reached the conclusion (in agreement, it may be observed, with the view taken in a Minute of Dissent recorded by a Member of the Bombay Government) that the amendment of the Usurious Loans Act in its application to a single province would only produce confusion, that the amendment of the Act, if undertaken at all, should be undertaken for the whole of British India in the Indian Legislature, and that before any decision in this matter could be reached other local Governments must be consulted. In the light of this decision the Bombay Government dropped the proposal to repeal the whole of the Deccan Agriculturists' Relief Act, pending a decision in the matter of the amendment of the Usurious Loans Act and submitted a revised Bill to amend and repeal in part the Deccan Agriculturists' Relief Act. To this Bill sanction was conveyed with no undue delay.

Proceedings of a Ladies' Meeting held at Simla on the 13th August, 1924, and Resolutions passed therein.

FROM H. RUSTOMJI FARIDOONJI, ESQ., TO THE SECRETARY, REFORMS ENQUIRY COMMITTEE, SIMLA, DATED SIMLA, THE 14TH AUGUST, 1924.

I have been requested by my Committee to submit a copy of the proceedings, together with the Resolution passed at a meeting held on August 13th at Simla; and a copy of the Memorandum prepared by the Committee.

We shall submit the names of witnesses for oral examination if required.

Lady Shafi presided and the following were present:—

Lady Zulfikar Ali Khan.

Kunwar Rani Charanjit Singh.

Lady Maynard (representing the Purdah Club, Lahore).

Begam Shah Nawaz.

Mrs. Hasan Imam.

Mrs. Muhammad Aslam

Mrs. Muhammad Rafi.

Mrs. Malhotra.

Mrs. Bholanath.

Mrs. A. Latifi.

Mrs. S. C. Gupta.

Mrs. P. L. Roy.

Hon'ble Mrs. Gupta.

Mrs. Ginwala.

Mrs. Deep Singh.

Mrs. Augustin.

Mrs. Majid Alam.

Miss Zulfikar Ali Khan.

Miss D. Nadirshaw.

Miss Rustomji Faridoonji.

Mrs. Sami.

Mrs. Miles Irving (representing Women's University Association).

Mrs. Rustomji Faridoonji.

2. Lady Shafi asked Mrs. Rustomji Faridoonji to explain the objects of the Meeting and move the Resolution. Mrs. Rustomji Faridoonji read letters from the following ladies regretting their inability to be present and supporting the movement:—Raj Kumari Bibi Amrit Kaur, Mrs. Bajpai,

Mrs. Bharucha, and Dr. Cujel on behalf of the Northern Section of Women's Medical Association.

The question of the disqualification of women for election as members of the several Legislatures in India was discussed and the following Resolution, as amended by Mrs Deep Singh, was moved by Mrs. Rustomji Faridoonji, and was seconded by Begam Shah Nawaz, and was unanimously passed.

Resolution.

This Meeting of Indian Women belonging to different parts of India places on record its very strong opinion that the disability of women to stand as candidates for the Legislatures be removed forthwith, and that the rules under the Government of India Act be amended accordingly.

3. An Executive Committee consisting of the following ladies was elected to promote the objects of this meeting, to send the Resolution and Memoranda to the Reforms Inquiry Committee, and to arrange for oral evidence if necessary.

Chairwoman, Lady Shafi.

Secretary, Mrs. Rustomji Faridoonji.

Joint Secretary, Mrs. Malhotra.

Members { Mrs. P. L. Roy. / Mrs. Bholanath. / Mrs. Deep Singh. / Mrs. Hasan Imam. / Begam Shah Nawaz. / Begam Rafi.

4. Begam Shah Nawaz proposed a vote of thanks to Mrs. Rustomji Faridoonji who had convened the meeting.

5. Mrs. Rustomji Faridoonji proposed a vote of thanks to Lady Shafi for presiding, and to Mrs. Hasan Imam for kindly lending her house to hold the meeting.

The following telegrams supporting the movement have been received :—

(1) From the Chairman, Bombay Women's Council—

"Impossible summon General Meeting, but I, on behalf of Women's Council, support Resolution."

(2) From the Secretary, Women's Indian Association, Madras—

"Women's Indian Association fully support your deputation. Time insufficient journey Madras representative. Seeking Bombay substitute. Writing.

COUSINS"

(3) From Kamini Roy, *Ex*-President, Bangiyanari Samaj—

"Unconnected with organized Body, may use my name as supporting your representation."

Resolution.

This public meeting of Indian Women belonging to different parts of India, places on record its very strong opinion that the disability of women to stand as candidates for the Legislatures be removed forthwith, and that the rules under the Government of India Act be amended accordingly.

Memorandum.

It is not necessary to recapitulate, in this brief Memorandum the arguments for and against woman franchise in British India. We leave that point as decided by the Joint Select Committee. Our contention is that it is an anomaly that women may not be members of the Legislatures in the provinces where they are granted the right to vote. We feel the right to vote ought to include the right to be a member of the Legislatures. In Burma, which was considered a backward province, and which after anxious deliberation, was the last to get a constitution under the Government of India Act, there is a provision in the rules for removal of the disqualification of women being admitted as members to that Council. While from the standpoint of literacy, women in Burma are numerically ahead of their sisters in the rest of British India, we emphatically repudiate any claim for those women to superior culture generally, or to greater fitness on account of higher education. In several provinces in recent years women have been given municipal franchise, and as members of local bodies they have been doing very useful work. The proportion of purdah women is small, nor is purdah general in any one province. The purdah system has not prevented many enlightened women from taking their share in public activities, and we need only quote the distinguished instance of the Begam of Bhopal. With the special conditions in India, it is most important that women should have an effective representation on the Legislatures, in order to protect and promote the interests of all sections of half the population of this country, particularly in the matter of social legislation, such as that relating to labour, right to property, education, etc. We feel that the welfare of women and children demands the presence of women on the Legislatures. Government have allowed separate representations to most classes in India, such as landholders, the commercial classes, and even the depressed classes, and we are strongly of opinion that the interests of women in India stand second to none, and need looking after. We very much resent the position that our sisters in the single province of Burma should be able, by a Resolution, to enter their Legislature, while this should be closed to even the most advanced women in the rest of India, a position which, to put it mildly, is simply intolerable. In conclusion, we strongly beg the Reforms Inquiry Committee to recommend the removal of the disqualification of women as stated in our Resolution.

Memorandum on behalf of the Parliamentary Muslim-Party of the Legislative Assembly.

I. So far as Provincial Government is concerened, the P. rliamentary Muslim-Party is in favour of gradual development towards the grant of full Provincial autonomy. The representation of the Muhammadan community in the Legislatures should continue to be by means of separate electorate. This is also the accepted view of the other parties such as the Independent, the Swarajist and the National Parties and many other constitutional organisations of the country. Effective and adequate representation should be conceded to such minorities as are of sufficient importance to be represented, in the Provincial Legislatures subject however to the essential condition, that no majority shall by the operation of this rule be reduced to a minority or even an equality.

The share of the Muslim community in the administration of the country should be commensurate with its political importance coupled with its strength in the population. The interests of efficiency will be duly met by the provision of selecting the best Mussalmans from amongst the competing candidates of our community. The principle of a general competitive examination open to all communities, must be modified, as its unqualified application is bound to lead to an overweight in the services of a particular community,—a principle against which the Legislative Assembly has already set its face. To avoid the overweightage of the services by members of any particular community, it will be necessary to modify the competitive test so as to provide for the selection from the successful candidates for a due proportion of Muslims. The United Provinces Government has already introduced this modified competitive test to secure the adequate representation of the best Muslim talent in the services of that Province, and in the Punjab the strict competitive test also does not obtain. University candidates compete among themselves while candidates sent up by the District Magistrates or the Deputy Commissioners called District candidates compete amongst themselves.

The committee would like to make it clear that they would prefer to see the power of appointing minister remain entirely in the hands of the Governor. The Committee are not in favour of the method of Lord Willingdon of choosing the Chief Minister and then letting the latter select his colleagues. In a perfectly homogeneous country, the English method of the Prime Minister selecting his colleagues is an excellent one. But in a country like India, where coalescence is the dream of the future, the English method is likely to work to the detriment of the minorities.

II. *Central Government.*—The Parliamentary Muslim community is strongly of the opinion that as self-Government develops in the Provinces the principle of responsibility should be introduced in the constitution of the Government of India. With the exception of the defence of India in all matters connected with His Majesty's Naval, Military and Air Forces in

India, His Majesty's Indian Marine Service, foreign or political relation including relations with the Indian States, all other subjects should be entrusted to the control of ministers responsible to the Legislative Assembly. At least one-third of the ministers shall be Mussalmans.

No bills affecting exclusively any community shall be placed on the statute book, unless ¾ of the members of that community present assent to that view.

Complete religious liberty should be guaranteed to all. No territorial distributions that might hereafter be decided on, shall affect the Muslim position of majority in the Provinces of the Punjab, Bengal, the North-West Frontier, Baluchistan and in Sindh if constituted into a separate Province.

The representation of the Bengal Mohammadans in the Legislative Assembly should be increased, as at present the representation is much below their population strength.

To bring about the changes in the Central Government, an amendment of the Act will be necessary. The Government of India Act 1919 left the position of the Central Government untouched. But as the grant of responsible Government in the Provinces cannot co-exist with an irresponsible Executive in the Central Government, a change in the constitution of the Central Government in the direction of insuring responsibility is ultimately inevitable. The present position where an irremovable executive stands confronted with a Legislative House, the majority of which is hostile, is intolerable. It is unfair to the Executive itself, and unless the position is improved, is bound to lead to a series of continued deadlocks. Although the control of the Army must for obvious reasons remain in British hand, it is desirable that the process of Indianisation of the army be speeded up.

III. The Electoral rules need modification as regards exercise of influence through party organisations such as the present feelings in the country, for thwarting Muslim Election by the non-Mussalmans. Our opinion is that in the matter of any election, another community or party must not interfere with election of our candidates for the legislatures and that it should be illegal if any such party or organisation interfere with the election by any Mohammadan electorate. Unless some such safeguard be devised the communal representation of Muhammadans might be defeated, *e.g.*, by bribery, etc., of a *pro*-Hindu party.

Dated, Assembly Chamber, Simla,

The 23rd September, 1924.

1. Prince Afsar-ul-Mulk Mirza Mohommed Akram Hossain Bahadur.
2. Kabeer-ud-Din Ahmed.
3. Dr. Syed Abdul Khader Sahib Jeelani.
4. Abul Kasem.
5. Nawab Sir Sahibzada Abdul Qaiyum, K.C.I.E.

6. Khan Bahadur Makdum Syed Rajan Laksh Shah.
7. Khan Bahadur Golam Bari.
8. Khan Bahadur Syed Md. Ismail.
9. Sardar Bahadur Captain Ajab Khan, O.B.E., I.O.M.
10. Khan Bahadur Muhammad Shams-uz-Zoha.
11. Khan Bahadur Walli Mohamed Hussanal
12. Mahmood S'chamand.
13. Syed Murtuza.
14. Muhammad Ibrahim Makan.
15. Alimuzzaman Chaudhury.
16. Dr. L. K. Hyder.
17. Ahmed Ali Khan.
18. Buddiuzzaman.

Memorandum of the Railway Department, Government of India.

No. 326-B., dated the 18th October 1924.

From—The Chief Commissioner of Railways,

To—The Secretary, Reforms Enquiry Committee.

I am directed to forward the accompanying memorandum and to request that it may be laid before the Constitutional Enquiry Committee.

MEMORANDUM.

It has been a matter of constant complaint from the Legislative Assembly that under the present procedure they are allowed insufficient time for discussion of the railway estimates. The Railway Department (Railway Board) would also welcome greater opportunities of explaining their proposals to the Assembly, since they feel that with such opportunities they would be able to dispel the suspicion with which much of their working is at present surrounded.

2. The acceptance by the Assembly of Government's proposal for the separation of railway from general finances with its corollary, the payment to general revenues of a contribution fixed on the results of railway working in the penultimate year, renders a reform in this respect possible, since it will be possible to present the railway budget in advance of the general budget without disclosing any financial secrets.

3. The Railway Department accordingly hope that they will be in a position to lay their budget before the Assembly in advance of the general budget next February, and thus secure some additional time for its discussion; but they look upon this as merely a provisional arrangement. It would in any case appear to involve some minor amendments of the Indian Legislative Rules. They doubt, however, if pressure of work in the Delhi session will ever allow the allotment of sufficient time for a thorough discussion of the railway estimates, and they would like therefore to inaugurate a larger change. If the railway year were changed so that the railway estimates could be presented to the Assembly in the September session, they anticipate that it would be much easier to secure that the requisite number of days was allotted for their discussion, and also to find time for an explanation of them in detail before presentation to the Standing Finance Committee for Railways.

4. This course would in their opinion have many additiona advantages. It should enable them to make much more accurate estimates both of revenue and expenditure, since the estimates will be framed at a time when the prospects of the monsoon can be accurately gauged, and just in advance of the heavy working season for practically all the large Railway administrations in India.

5. It would be possible by changing the date of the commencement of the railway year to the 1st October and placing the railway estimates before the Assembly in the middle of September to adhere to the main outlines of the present system in India; but the Railway Department would prefer a more

radical change. Their specific proposal is that the date of the commencement of the railway year should be altered to the 1st August, the railway budget being presented about six weeks later, in the middle of September. This proposal has the following further advantage; that practically all the work now thrown on the Railway Department itself, and on Railway Administrations, in the preparation of revised estimates would cease, since it should be possible by the middle of September to supply the Assembly with the approximate actuals of the previous year. It would, of course, be necessary for the Railway Department to obtain in the Delhi session a vote on account to cover both capital and revenue expenditure from the 1st of August until, say, the beginning of October when their new budget would have been passed; but this vote on account in the Delhi session would give an occasion to the Assembly to raise any general matters of railway policy which they wished to discuss.

6. On administrative grounds also the Railway Department would welcome this change in the date of the railway year and of the presentation of their budget. For it would enable Agents of Railway Administrations to prepare the budget in the summer months when on the whole they are less busy, and set them free during their heavy working season; it would also give far greater freedom to Members of the Railway Board to tour during the cold weather.

7. The Railway Department have, however, been advised that effect cannot be given to the change proposed without an amendment of section 67A of the Government of India Act which requires that the estimated annual expenditure and revenue of the Governor-General in Council shall be laid in the form of a statement before both Chambers of the Indian Legislature in each year, since this section contemplates a single financial year. Amendments of the Indian Legislative Rules issued also appear to be necessary.

8. It is not suggested at the present stage that the section 67A of the Government of India Act should be so amended as to compel the Government of India to adopt one or other of the two reforms indicated in paragraph 5 above. But the Railway Department would be grateful if the Committee would consider whether section 67A could not be amended so as to empower the Government of India (1) to prescribe by notification on what date the railway year shall begin for Budget purposes, and (2) to present the Railway Budget for the year so fixed to the Legislature separately from the General Budget.

LIBRARY OF THE BOMBAY BRANCH OF THE ROYAL ASIATIC SOCIETY

431HD—200—28-1-25—GoIPS

Digitized with financial assistance from

Government of Maharashtra

on 01 February, 2020